1903

# THE USAGE OF HOLDING PARLIAMENTS AND OF Preparing and Paſſing Bills of Supply, IN IRELAND, STATED FROM RECORD.

*Quid verum atque decens curo et rogo.* HOR.

**Published by authority.**

DUBLIN: Printed by BOULTER GRIERSON, Printer to the King's moſt Excellent Majeſty. M,DCC,LXX.

To which is added,

ANNOTATIONS, together with an ADDRESS To His Excellency GEORGE Lord Viſcount TOWNSHEND, Lord Lieutenant General and General Governor of Ireland.

By C. LUCAS, M. D.

One of the Repreſentatives of the City of DUBLIN, In Parlement.

DUBLIN:
Re-Printed for THOMAS EWING.
M,DCC,LXX.

BRITISH MUSEUM

# ADVERTISEMENT.

ON the 12th Day of *March* laſt, the following Advertiſement appeared in the Public Papers.

This Day at twelve o'clock will be publiſhed, Price 1s. 1d.

THE Uſage of HOLDING PARLIAMENTS; and of preparing and paſſing BILLS OF SUPPLY in Ireland; ſtated from Record.

*Quid verum atque decens, curo et rogo.* HOR.

## Publiſhed by authority.

Printed by B. GRIERSON, Printer to the King's moſt excellent Majeſty.

But though the Cuſtomers, thus invited, came to the Place, at the Time appointed, and though the Pamphlet was put into ſome of their Hands, it was immediately recalled; upon a ſudden Order from the Caſtle, to ſtop the Publication. The Cauſe of this dark Proceding lyes conceled, among other ſecret Myſteries of our wiſe Adminiſtration.

The Miniſtry, no doubt, at ſome time, thought the Work muſt have ſerved their Purpoſes. Whether they think ſo, now, or not, I do not preſume to inquire. But, I think it will ſerve my Cauſe, which is that of my King and Country.

Perhaps, it was thought wiſe to throw out the Advertiſement, to ſuſpend the Publication, and hold the ſuſpended Work over the Heads of the People, in Hopes to frighten them into ſubmiſſion to all Sorts of miniſterial Oppreſſion.

Let the Cauſes of the Suppreſſion or Suſpenſion of the promiſed and authoriſed Publication be what they may, and let the Pamphlet anſwer what Purpoſes it may; ſince, by unexpected Accident, it has fallen into my Hands, I cannot ſuffer it to be longer with-held from the Public, and therefore, humbly offer it to their Conſideration, in this Form.

One way or other, it muſt bring Light out of Darkneſs, and promote the Knowledge and the Cauſe of Truth.

Dublin, April 9, 1770. C. L.

# ADVERTISEMENT.

TO

HIS EXCELLENCY

**George Lord Viſcount Townshend,**

**Lord Lieutenant General and General Governor of Ireland.**

My Lord,

HAD the following Pamphlet been fairly circulated, agreeable to your Excellency's Directions, agreeable to it's Titule and the Advertiſement, which uſhered it into the World; I might perhaps, have ſpared your Excellency, as well as myſelf, the Trouble of accoſting you again, in this Manner.

As this pompous Work, has obtained the Sanction of the Authority of Government, to authenticate it's Publication; it muſt be aſcribed to your Excellency and your wiſe Council and Miniſters.

O T

As I do not chooſe to treat with Subſtitutes, in a Matter of this national Import, I addreſs myſelf to your Excellency. And as this Work, though promiſed and offered to the Public, as the Titule Page expreſſes, PUBLISHED BY AUTHORITY, has been, as far as poſſible, prevented by Authority, from falling into any other Hands, than the Creatures, Agents and Dependents of the Court; I take the Liberty, thus to reſcue it from the intended Obſcurity, though perhaps, to ſerve Purpoſes widely different from thoſe of your Excellency and your wiſe Miniſters and truſty Servants.

I think myſelf authoriſed to take this Step, firſt, by the great Law of Nature, Self-defence; ſecondly, by the ſacred Regard due to Truth and Juſtice; and laſtly, by the moſt diſintereſted and inviolable Love and Regard to my King and Country.

It is much to be lamented, by thoſe who wiſh well to your Excellency, that you had not got this reſearch, into the neglected, periſhing Records of this Kingdom, barren

and fruitleſs as it has proved, made, before your late memorable Prorogation and Proteſt: For, then, had your Excellency been left to yourſelf, it muſt be preſumed, the Nation had eſcaped unſpeakable Injury and Diſtreſs, and the Adminiſtration, indelible Diſgrace.

But, it was thought, and for ſome Time aſſerted and believed, that this Pamphlet would have authoriſed and juſtified the ſevereſt Meaſures of Adminiſtration, towards this poor Kingdom and it's Parlement; For, it was judged, well calculated, not onely to ſupport the Modern exorbitant Clames of the Chief Governors and Privy Council, to originate Bills of Supply, to puniſh the People and Parlement, with untimely Prorogations, and to inſult them with illicit Proteſts againſt the Proceedings of a Part of the Legiſlature, whenever the Commons have the Wiſdom and Virtue to aſſert their indubitable conſtitutional Rights; but to authoriſe any Change, if not the intire Subverſion of the Conſtitution of the Kingdom.

For, the Partiſans of your Excellency are by this taught, and, I muſt ſuppoſe, authoriſed, to aſſert and propagate Doctrines, ſubverſive of the whole Conſtitution, even of the Inſtitution of Parlement; and theſe

Documents, we may now expect to ſee inforced, or attempted to be inforced, by the ſame Authority, that cauſed the partial Publication.

The Meaſure of our Adverſity, it ſeems, is not yet filled: It is not judged enough, that the whole People are abuſed, vilified, inſulted and oppreſſed, deprived of the Comfort and Support of their Parlement, as ſoon as they had taxed their Conſtituents; but that very Parlement is treated with the utmoſt Indignity and Contempt; while ſuch Members of either Houſe, as have poſſeſſed Places under the Crown, though they diſcharged the Duties of their reſpective Offices with unqueſtioned Fidelity and Care, and confeſſedly to the general Satisfaction both of King and People, are diſmiſſed; merely becauſe they would not Support all the Meaſures of Adminiſtration, indiſcriminately, or becauſe they had conſcientiouſly oppoſed ſuch as they did not approve. It is not enough that ſuch Men are ſtripped of their Employments, to make Room for Men of a more pliant Diſpoſition; but they are to be expelled the Council Board, whoſe Power is to be raiſed and extended, by Authority, as we are to expect from this extraordinary Pamphlet.

Our

Our national Conſtitution, with Parlements, inſtituted upon the model of thoſe of *England*, and eſtabliſhed by the moſt ſacred Authority of living Records, we are taught, by your Excellency's authoriſed Pamphlet, to be but ideal or abſolute Nullities: According to this new Doctrine, nothing is to be moved in either Houſe of Parlement, but ſuch as is judged fit to be dictated by the Prerogative, through the King's Vicegerent and Privy Council. By this, it is aſſerted, that, though in *England*, the Power of moving for and framing Laws, is veſted in both Houſes of Parlement; in *Ireland*, that Power is veſted in the Prerogative alone; or to uſe the Author's, which I may now call, your Excellency's, Words; "In *Great-Britain* the Parlement are the "Formers or Promoters of the Law; in "*Ireland*, the King, by his Chief Governor "and Council; in *Great-Britain*, the final "Deciſion, by Affirmation or Negation, "reſts in the King; in *Ireland*, it reſts in "the Parlement."—If this Doctrine be inforced, as this Pamphlet was publiſhed, by Authority, how vane and chimerical are the received Notions of our Government, though eſtabliſhed for ſeveral Centuries among us, by the moſt ſacred Authority, upon the Plan and Principles of the Government of *England*?

But,

But, though this Innovation may be thought humiliating enough to a Parlement, formerly derived, but now to be perverted, from the ſame ſalutary Source of the Britiſh Legiſlature, being thus to be leveled with the pitiful Remanes of the Parlements of *France*, yet ſubſiſting by the Tyrant's permiſſion, for regiſtering his arbitrary Edicts; this Pamphlet, publiſhed by Order, and under the Sanction of your Excellency's Authority, no doubt, for new modelling this Government, adds another Body to the Legiſlature: For, not content with the ſhare, the Privy Council now aſſumes in the Legiſlature, which is no leſs than that of a fourth Eſtate; by the Doctrine of this Pamphlet, thus authoriſed by your Excellency; they are not onely to aſſiſt the Chief Governor in preparing ſuch Bills and other Matters, as are to be moved by their Permiſſion, in Parlement, but they are to have Seats, with deliberative Voices, in the Houſe of Peers.

Such, my Lord, ſeems to be the Plan adopted by Authority, for a total Change of the eſſential and fundamental Form, as well as Principles of Government in this abuſed Kingdom. Such are the Documents, now authoritatively given, if not to the Public, in general, to the truſty Servitors of Adminiſtration, in the partially diſtributed,

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authoriſed Pamphlet. Is it for this, my Lord, that all Placemen and Penſioners are ordered to procure Seats in Parlement? Is it for this, all Members, who are diſgraced with Places or Penſions, are obliged, upon pain of being diſmiſſed, to undertake the Support of the Meaſures of Adminiſtration, blindly, implicitly, indiſcriminately? Is it to forward theſe purpoſes, the firſt Officers of the State and the Privy Council Board are actually, or intended to be, garbled? Are meaſures like theſe to be judged ſuitable Returns to the boundleſs and invariable Loyalty of the People of *Ireland*? to their ſtrict regard to revolution Principles? to their invincible Averſion to STUARTISM? to their faithful Attachment to the preſent Eſtabliſhment, Civil and Eccleſiaſtic? to their pacific, ſilent Submiſſion, to the moſt ſevere, unprovoked Injuries, purely to avoid increaſing the great Diſtreſſes, brought upon the beſt of Kings, by the univerſal Murmurs and Complaints of the moſt Loyal of his Subjects, throughout the reſt of his Dominions, groaning under the intolerable Exactions and Oppreſſions of deteſted Miniſters?

I am not inſenſible, my Lord, that an individual Member of Parliament has no Right, unaſked, to obtrude his Advice upon the King or his Vice-gerent. But, as I ſee no proſpect of the Meeting of Parlement, time enough to offer Advice more regularly,

regularly, upon the preſent extraordinary Emergency; I think it incumbent upon me, to offer every poſſible means of obviating the impending, though I may not have the effectual Means of redreſſing the inflicted, Injuries.

Therefore, the Love and Duty, I owe my Soveregne, and the reſpect, I am ever ready to pay to all that bear his Authority, call upon me, as they do upon every Man in my Station, indeed, upon every loyal Subject, to offer Advice, in caſe of imminent Danger. The Wiſe may take ſeaſonable Warning from the Fooliſh or Simple. The ungrateful Notes of a Gooſe, once prevented the deſtruction of the Capital of the World.

As it is to be preſumed, the Publication of this Pamphlet was originally ordered, to juſtify paſſed and preſent Meaſures, and to authoriſe the intended future Changes to be made in our Syſtem of Government; your Excellency will, for once, permit a real, diſintereſted Friend to the King, and his truly worthy Repreſentatives and Miniſters, candidly and freely to examine the Baſis of your intended Fabric, in this elaborate Tract, and to point out the abſolute inſufficiency of the recited Records, and of the juſt, as well as ſuppoſi-

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titious Inferences from them drawn, to all the Purpoſes deſigned.

This, my Lord, cannot well be done, without republiſhing the Pamphlet. The King's Printer, who was to have Publiſhed this important Work, by Authority; has not been permitted to vend one of them. Some Copies, however, of the Edition, he printed, has got into a few favorite Hands, onely; except one, which a Friend procured for me, who fortunately am no Favourite.

To gratify my Fellow-members and Fellow-ſubjects, who are not intruſted with the Sight of this boaſted Charter of Miniſterial Power, and to obviate the ſuſpicion of making partial Quotations; I beg leave to take the benefit of the Freedom of the Preſs, and to re-publiſh this great and important Work, which muſt ſurely redound to the Juſtification and Honor of your Excellency's paſſed, preſent and future Adminiſtration; to the Satisfaction and Information of the Public, and to my own Vindication, who have always been hardy enough to aſſert, as I ſtill do, with all deference to your Excellency's Authority, that the Laws and Conſtitution of *England*, from thoſe of *William* the firſt, to thoſe of the tenth of *Henry* the ſeventh, incluſive, of which, the *Modus tenendi Parlementum* makes an eſſential Part, are eſtabliſhed, the

Laws,

Laws, Conſtitution and *Modus* of *Ireland*, upon as juſt and legal Authority, as thoſe were or now are eſtabliſhed in *England*.

It muſt be preſumed, that, when your Excellency was pleaſed to order the National Archives to be Inſpected, it was with the ſole view of inveſtigating Truths of Importance, to Government and Society. Your Excellency, no doubt, pitched upon the moſt faithful and able Officer, for this intereſting Reſearch. Nor can it be doubted, that this worthy Gentleman has layed every Thing before your Excellency, according to your Order, that could elucidate "the Uſage of "holding Parlements in *Ireland*, and of pre-"paring and paſſing Bills of Supply, from "the earlieſt Period of Recorded Time, to "the memorable, exemplary, Parlementary "Period, of the Year, 1692."

This Inquiry being made, and the Product of it layed before your Excellency, muſt be preſumed to have received the Approbation and Sanction of your Council. It was therefore ordered to be printed and publiſhed, by your Excellency's Authority. Yet ſince, to the univerſal ſurpriſe, it is denied to the longing Public, and onely committed to the Hands of a truſty few.

I mention this, as a complaint againſt your Excellency's Miniſters. Truth and the

the Honor of the King and Government muſt have been the Objects of your Excellency's Care and Inquiry. And therefore, it muſt be preſumed, that your Excellency intended the Fruits of this Reſearch, might be freely and fairly imparted to the Public. The diſcovery muſt, one way or other, promote the Knowledge and the Cauſe of Truth. It ſhould not therefore be ſuppreſſed, or even partially diſtributed. Yet ſo it is, my Lord.—It may be for your Excellency's Honor to puniſh the Offenders.

If this Pamphlet had not been judged by your Excellency's Council, to contain Means for juſtifying paſſed, and authoriſing the intended Meaſures of Adminiſtration; perhaps, it might not be found neceſſary to print or publiſh it. But, if upon a more careful Peruſal of the Work in Print, it was found to make more for the Opponents, than the Supporters of Adminiſtration; the ſuppreſſing it became injurious to Truth and Juſtice, and ſhewed a Temper and Diſpoſition, which, even your Enemies, if any you have, will not preſume to impute to your Excellency. The Charge muſt therefore lye onely againſt ſome of your Miniſters and Servants.

To reſtore then, this important Work to Light, muſt be grateful and acceptable to

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your Excellency. Let this be my pleaſing Taſk. Thus my Lord, I beg leave to preſent it, to your Excellency, and to my Friends the Public. You will find it a moſt fair and exact Copy, with no Interpolation, no Alteration, no Addition; except ſome ſhort ANNOTATIONS, for the better Elucidation of the intereſting Subject.

To prevent the extending the Diſtractions of the other Parts of the Dominions of our Crown, to this Kingdom, muſt ſurely be pleaſing and deſirable to your Excellency. In your great good Senſe, Humanity and Loyalty, you muſt highly approve and admire the pacific Spirit of this abuſed People; who, though laboring under more grievous Preſſures, than any other of their Fellow-ſubjects, have not yet been heared to Groan, under their Opprobrious Burdens. They deſpiſe the Craft, which has ſo frequently and ſo effectually ſucceded with an other Claſs of the Subjects, in a remote Part of the neighbouring Kingdom; they have never thought of availing themſelves of any embarraſſed Circumſtances of the Crown, to make extraordinary Demands or Complaints, much leſs to offer any Diſturbance to Government. They patiently wait for the Redreſs of Grievances, in a peaceful, in a legal and conſtitutional Manner. This, they have a right to expect from Parlement. Your Excellency muſt be too wiſe, too faithful

faithful to your Truſt, by fruſtrating their reaſonable expectations, to encourage the peſtilent Contagion of Diſaffection and Diſcontent, by Miſmanagement and Maladminiſtration, propagated in other Parts of the Empire; to reach this well-affected, loyal and peaceful People. Long and repeted Oppreſſion may waſte their Patience, turn their Heads, as well as their Hearts, and drive them to join in the Common Cry. It cannot be denied, that they have Cauſe, as well as a Right, to complain of heavy Grievances. Every Friend to the eſtabliſhment, muſt wiſh this cauſe removed, and the Grievances redreſſed, in the proper Manner and Place, in the national Council. It is to be hoped, that no new Cauſe of Complaint will be given. But, if theſe are not to be obtained, it can give no juſt cauſe of Offence, if the People are forced to make their Application directly to the Throne.

To make the Regne of our gracious Soveregne, as eaſy and proſperous, as he wiſhes to make his People happy and free, is the Intereſt and Duty of all his Subjects, of thoſe more eſpecially, who are put in Power and Authority under him. Let others do what they judge fit; I am determined to diſcharge my Duty to my King and Country, to the utmoſt of my Ability,

with Integrity, Conſtancy, Fidelity and Fortitude. And morever, I am reſolved, I ſhall not be found wanting in the Reſpect and Deference due to his Majeſty's faithful and worthy Vice-gerents. In all which, I cannot doubt being honored with your Excellency's Approbation, and his Majeſty's Protection, the juſt return for unfeigned diſintereſted Love and Loyalty, the onely return, which is ſought, or would be accepted, by,

May it pleaſe your Excellency!

Your Excellency's

Moſt Faithful,

And moſt obedient Servant,

C. LUCAS.

Dublin, April,
9. 1770.

THE

# THE USAGE OF HOLDING Parliaments in *Ireland*, &c.

## Stated from RECORD.

"THE late Prorogation of the Parliament, "on account of the *Reaſon*, aſſigned in "a Vote and Reſolution of the Houſe "of Commons, the 21ſt of *November* laſt, for re-"jecting a Bill, intituled, 'An Act for granting 'to his Majeſty the ſeveral Duties, Rates, Impoſi-'tions, and Taxes, therein particularly expreſſed, 'for the Space of three Months,' having given Riſe

## ANNOTATIONS.

The Lines, which the judicious Author, or Amanuenſis to his Excellency, here marks with inverted Commas, muſt be taken for the Directions of Government, for the Work, and no part of the Text. Whence we learn, that it was not the rejection of the Privy Council Money bill, but the *Reaſon* aſſigned for rejecting it, that brought on the heavy Penalty of the late Prorogation. ——— The Commons, ſay the Courtiers might have rejected the Bill, arbitrarily: Their Reaſon is their Crime. ——— *Reaſoning* and Debate are therefore to ceaſe in the Senate, by *Authority*. *Car tel eſt notre plaiſir.*

to various Publications, *(a)* (unſupported by any authentick or adequate Proof,) againſt " the Practice and *Uſage*, (alledged by his Excellency, the Lord Lieutenant, in his *Proteſt*) " of all Parliaments, ſince the making of the Statutes therein " mentioned ;" his Excellency directed, " that a " State of the *Uſage* of holding Parliaments in *Ire-* " *land*, and of *preparing* and *paſſing* Bills of Supply, " from the earlieſt Period of Time upon Record, " to the Year 1692, ſhould be laid before him, " for his information."

*(b)* Accordingly, the following State of ſuch *Uſage*, &c. hath been preſented to his Excellency, and he hath directed the ſame to be made Publick.

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May it pleaſe your Excellency,

THE rejected Bill, prepared by the Chief Governor and Privy Council, previous to the holding of a new Parliament, was certified to the King as a Cauſe for ſummoning a Parliament ; and by His Majeſty was tranſmitted hither, in the uſual Form, to be treated of and conſidered, approved or rejected, *(c)* by Parliament.

ANNOTATIONS.

*(a)* "Publications unſupported by any authentick, adequate proof, againſt the Practice and Uſage, alleged by his Excellency in his *Proteſt*." ——— This Author ſeems to judge, that the *Proteſts* of Chief Governors muſt have invalidated not onely the Journals of Parlement, but even the Statutes; as he judges they are not authentic proof of parlementary Proceedings, precedents or uſage. Even Royal Records are found of no weight, when they make againſt the aſſumed Power of Miniſters, and ſtretches of Prerogative. Otherwiſe, the Journals, Statutes and Records, cited in the *Conſtitution of* Ireland *and* Poynings's *Law explained*, in the *Rights and Priviledges* of Parlement *aſſerted*, and other Tracts, could not be denied their juſt weight and authenticity.

*(b)* This Paragraph authenticates the Publication, *by Authority*.

*(c)* Here again the power of Parlements, to *reject* certified Bills, is allowed. But, they are to be puniſhed if they offer a *Reaſon!*



The

The *Reaſon* aſſigned for rejecting this Bill, hath occaſioned a Queſtion, Whether the Chief Governor and Privy Council of this Kingdom can, conſiſtently with the Conſtitution thereof, prepare a Bill of Supply, uſually called a Money-Bill, previous to, and as a Cauſe for holding a Parliament, and offer the ſame to the Conſideration of the Commons; or, whether all Bills of Supply and Taxation, ought not originally and conſtitutionally to take their Riſe in the Houſe of Commons?

No Arguments, unſupported by proper Evidence, can determine a Queſtion of this delicate Nature. The moſt material Papers, hitherto ſent abroad, upon the Subject, are deficient in this reſpect. The printed Statutes and Journals, on which they chiefly rely, are inſufficient: the accuſtomed Uſage is not there to be found. The ſcattered *(a)* Parliamentary Records alone can aſſiſt, in framing a competent Idea of what hath been the uſual Method of holding Parliaments in *Ireland*. An Inquiry into thoſe Records, and a Deduction of their Contents, in a ſeries of Time, may poſſibly tend to aſcertain, what was the *Conſtitution* and *Uſage* of the Parliaments of this Kingdom, both before and ſince the remarkable Statute, diſtinguiſhed by the Appellation of POYNINGS's Law.

It may be proper to premiſe, that your Excellency may the better comprehend the State of this

ANNOTATIONS.

*(a)* Why the *ſcattered* Records ſhould anſwer better than the ſame well collected and preſerved, let Courtiers explane. This may be uſed as an apology for not citing a regular ſeries of Records: And the deficiency is afterwards made manifeſt, but attempted to be ſupplied, with *Preſumptions, Suppoſitions, Seemings*, &c.

Queſtion, that the Writs *(d)* of Summons to Parliament in England, ran in the King's Name only (a very few occaſional Inſtances excepted) until the 46th Year of King *Edward* III. when they were iſſued by Advice of the Council; and the Perſons ſummoned, were required to attend, at a certain Time and Place, to treat together, and give their Counſel to the King, either upon certain arduous and urgent Affairs, eſpecially relating to Him and the State of His Kingdom, or upon ſome particular Occaſion, ſpecified in the Writ. * But the Writs of Summons to the Parliaments of *Ireland* were not only iſſued "by the Advice of the Chief Gover-"nor and Council;" but the Perſons ſummoned, were required to treat of and conſider ſuch Things, as "ſhould be propoſed to them by the Chief Go-"vernor and Council, on the King's Behalf." *(e)* Which Circumſtance, added to the Council's being ſummoned to attend, and their ſitting in Parliament (as hereafter mentioned) may, in ſome Degree, account for the Council's having been conſi-

* *Dugdale*'s Summons to Parliament.

ANNOTATIONS.

*(d)* Theſe muſt have been iſſued by the Executive Power in each Kingdom, at all times. Where the King does not perſonally reſide, he muſt act by repreſentation. Whatever was the Law in England, before the reign of Henry the Seventh, became then the eſtabliſhed Law of Ireland. The Tenor of theſe Writs in each Kingdom is the ſame. By them, the Parlement are directed *to treat together and to give their Council to the King upon certain arduous, urgent and weighty Affairs, concerning him, the Public Good, the State and defence of the Realm, &c.*

*(e)* And ſuppoſing, for it is not proved, that they were *to treat of ſuch Things as ſhall be propoſed, &c. on the King's behalf*, how or where are they excluded from fulfilling the other part of the Writ! or, rather, are they not bound to obey it, in duty to their King and Country!

dered

dered as a Part of the Legiſlative Body of this Kingdom. (f)

And, as the Writs of Summons vary, ſo do the Parliaments in their Form and Manner of Proceeding. This Difference is occaſioned by the King's Abſence from *Ireland*.—In *Great Britain*, the Parliament propoſe, treat of, and prepare for the Royal Aſſent ſuch Cauſes, Conſiderations, and Acts, (thoſe of Pardon excepted) as are thought fit by them to be paſſed into Laws, and the King is veſted with Authority to give or withhold his Aſſent to them, or to any of them: In *Ireland* (his Majeſty being abſent) it becomes neceſſary, that he ſhould be informed or certified of the Cauſes and Conſiderations for ſummoning his national Council, previous to his directing his Writs to iſſue for that Purpoſe. This Information can only be communicated to his Majeſty by his Repreſentative and Privy Council of *Ireland*; and therefore, after ſuch Cauſes are approved by his Majeſty, he empowers the Chief Governor, by Advice of the Council, to ſummon and hold a Parliament; and to lay the ſaid certified Cauſes, by him tranſmitted, before his ſaid Parliament, for their Deliberation, who are veſted with Authority to approve or reject, as they ſhall ſee neceſſary or expedient (g). So that

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(f) The King's Counſel are always ſummoned in form, to attend every Parliament. But neither the Privy Council or any other, not even the Judges, as ſuch, were ever known to have any deliberative Voice in the Houſe of Lords, where alone they are obliged to attend and are permitted to ſit, as the Judges alſo are to be covered.

(g) This whole Concluſion is the diametrical Reverſe of Truth, both in Theory and Practice. The Proceedings in Parlement in both Kingdoms agree, in Form and Principle,

that in *Great Britain*, the Parliament are the Formers or Promoters of the Law; in *Ireland*, the King, by his Chief Governor and Council; in *Great Britain*, the final Deciſion, by Affirmation or Negation, reſts in the King; in *Ireland*, it reſts in the Parliament.

(*b*) If His Majeſty then, as a primary Cauſe to hold a Parliament in *Ireland*, propoſes a Bill of Supply, to provide for the Maintenance of His Royal Eſtate, and the Support of His Eſtabliſhments, He doth no more than propoſe it (as the Firſt conſtitutional Mover) to the conſideration of His Parliament; and if His Parliament think fit to reject His Bill, and to frame another, better calculated to anſwer thoſe Purpoſes, His Majeſty takes no Umbrage, but *accepts the Gift*, and returns Thanks for the Supply, *granted by His Parliament*: And the Parliament, on their Part, paſs or reject His Majeſty's Bill, as they think fit (*i*), without aſſigning a *Reaſon* for doing ſo, being accountable only to themſelves for their Proceedings in

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and muſt do ſo, until altered by *Authority*. This, I hope, will not be attempted by the preſent Government.

(*b*) Though the King be the *primary mover* or *Cauſe* of holding a Parlement, He neither is, nor can be, the *conſtitutional* or a *particular Mover* there; for all Motions muſt be made by Members. The buſineſs of the King and the Nation are and muſt be, one and the ſame.

(*i*) Though the King may be too wiſe and juſt *to take Umbrage* at his Parlement's rejecting any Bill, and *might gratefully accept ſuch* Benevolence, *as they may think fit to offer*; yet his Vice-roy, after thanking them in the King's Name and his own, for granting larger Supplies and for a longer Term, than thoſe in the rejected Bill, might puniſh them with a *Proteſt* and *Prorogation*. See the Caſe in Point!

in this particular (*k*).----And, by the Obſervation of this accuſtomed Rule (two well known Inſtances excepted) Harmony and Confidence are preſerved between the King and his Subjects of *Ireland* (*l*).

Sir *John Davies*, Attorney-General of *Ireland*, was elected SPEAKER of the Houſe of Commons, in the Parliament of 1613. In his Speech to the Lord Deputy *Chicheſter*, when preſented to that excellent Governor for his Approbation, he delivered his Sentiments of the ancient *Conſtitution* of this Kingdom, and the *Uſage* of its Parliaments, in the following Terms (*m*).

"The Kings of England no ſooner were Lords of "*Ireland*, but they made a real Union of both theſe "kingdoms, as is manifeſt by authentique Records "of the Time of King *John*, and King *Henry* 3. ſo "as *Ireland* became but as a Member, *quaſi Mem-*"*brum Angliæ*, as it is reſolved by all the Juſtices, "in the third Year of Henry 7. It became a "Member

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(*k*) Here again, *Reaſon* is made the Crime of the Commons!

(*l*) The Commons' aſſerting their original, inherent Right to Taxation, has more than once been cenſured and puniſhed, by *Authority*, though illicitly. See the *Rights and Privileges of Parlement aſſerted*, &c.

(*m*) Nothing more futile, than the introducing the following Speech of an Engliſhman, in the diſcordant and incompatible Offices, of Attorney General to the moſt vane and arrogant of our Monarchs, and Speaker of the Houſe of Commons, who muſt by his former Office be a Slave and Flatterer of Power; unleſs it be introduced for the Note, on p. 26. to give one, out of numberleſs Inſtances of the omiſſions, neglects or Perfidy of the Editors of the Statutes, who render this Kingdom, *depending*, inſtead of, *appending*, as it ſtands in the Parlement Roll: For, the Author himſelf, from the Records, refutes the Principal court Poſitions of Davies, p. 28, 29.

" Member *appendant* * and belonging, as the Act " of Faculties, 28 *Hen.* 8, calls it; or united and " annexed to the Imperial Crown of the Realm of " *England*, as the Statute of 33 *Hen.* 8. which " gave to that Prince the Title of King of *Ireland*, " determines it.

" And now, at this Day (God be bleſſed) the " Subjects of both Realms have but one King, " which is the renowned King of England; and " are ruled and governed by one common Law, " which is the juſt and honourable common Law " of *England*; and as there is now but one com- " mon Law, ſo, for the Space of One hundred and " forty Years after King *Henry* 2. had taken poſ- " ſeſſion of the Lordſhip of *Ireland*, there was but " *one Parliament for both Kingdoms*, which was the " Parliament of *England*, for *Ireland had none during* " *all that Time*: But, the Laws, made in the Parlia- " ment of *England*, were, from Time to Time, " tranſmitted hither, under the Great Seal of that " Kingdom, to be proclaimed, inrolled, and exe- " cuted, as Laws of this Realm.

" In this Manner was the Great Charter of the " antient Liberties of the *Engliſh* Subjects, the Sta- " tutes of *Merton* and *Marlebridge*, ſent over by " King *John* and King *Henry* 3. the Statutes of " *Weſtminſter*, the Firſt, Second, and Third, and " the Statute of *Glouceſter*, by King *Edward* 1. the " Statutes of *Lincoln* and of *York*, by King " *Edward* 2.

" Amongſt the reſt, that of *Weſtminſter* the Se- " cond and that of *York*, in their ſeveral Pream- " bles, do make expreſs mention of the People " and

* *Appending*, is alſo the Word in the Record of the Act, " Authoring " the King to be ſupream Head of the Church of *Ireland*;" and not, *de- pending*, as printed in the Statutes, 1. 90.

" and Land of *Ireland*, as well as of *England*, where " the Laws were made.

" All which Statutes, together with the War- " rants and Writs, whereby they were transmit- " ted, we find inrolled and preserved to this Day, " among the Records of this Kingdom. *(n)*

" Doubtless, though the rest of the ordinary " Courts of Justice began with the First Plantation " of the *English* Colonies here, yet the Wisdom of " the State of *England* thought it fit, to reserve " the Power of making Laws to the Parliaments " of *England*, for many Years after.

" So as this high extraordinary Court was not " established in *Ireland*, by Authority out of *Eng-* " *land*, for many Years after, in the Form that " now it is, 'till towards the *declining* of King " *Edward* the Second's Reign; and assuredly, this " Common Council was then instituted, when " *Ireland* stood most in need of Counsel, for, under " the Conduct of *Edward Le Bruis*, the *Scottish* " Nation had over-run the whole Realm; *England* " had the same Enemy at her Back, and the Barons " Rebellion in her Bowels; and so, being distrac- " ted in herself, could neither give *Concilium* nor " *Auxilium* to the distressed Subjects here; so as " they, being left to their own Strength and Coun- " sel, did then obtain Authority from the State of " England,

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*(n)* But, tho' Parlements were actually called and held here, from the first Establishment of the English Constitution, by Henry the Second; who gave the *Modus tenendi Parlementum*, and held the first Parlement; it must be gratefully acknowledged, that several of the succeding Kings sent over Statutes made in England, declaratory of the common Law there, for the better information of the Subjects of Ireland.

" *England*, to hold this Common Council of the " Realm among themſelves, for the quenching of " that common Fire, that had almoſt conſumed " the whole Kingdom.

" And this, by the Teſtimony of the beſt Anti- " quaries, was the firſt Time, and firſt Occaſion " of inſtituting this high Court of Parliament in " *Ireland*."

It appears however, if full Credit is to be given to Recitals in Acts of Parliament, that, notwithſtanding this learned Argument, not only " the " ordinary Courts of Juſtice," but Parliaments alſo, " began with the firſt Plantation of the *Engliſh* " colonies here;" for, it is expreſly declared by two Statutes †, the *Uſage* of holding Parliaments in *Ireland*, was from the immediate coming in of the *Engliſh*. "That all the liege People of *Ireland* had, " and uſed to hold Parliaments without Interrup- " tion, from the Conqueſt of the ſaid Land by the " moſt noble King, *Henry Fitz-Emprys*, to the pre- " ſent Time."——Likewiſe, in a certified Bill, it is recited "That the Land of *Ireland* is your " Lordſhip's of olde Tyme, annexed to your Crown; " in the which Land, ye and all your Progenitors, " ſome Tyme Kinges of *England*, and Lordes of " *Ireland*, of the Tyme that none Myn renueth, " have had Courtes, that is to ſay, Chancery, " Kinge's Benche, and Eſchequer; and other " Courtes reall, that is to ſay, Parliamentes and " great Conſeilles." *——The firſt Acts alſo, in the printed Statutes, being thoſe of the *third* Year of *Edward* 2, controvert the Poſition, " that " Parlia-

† Parl. Rolls. *ann.* 32 *Hen.* 6. *cap.* 19. and 2 *Ric.* 3. *cap.* 8. not printed.
* Pat. Roll, 39 *Hen.* 6. *cap.* 1.

"Parliaments were not eſtabliſhed in *Ireland*, till "towards the *declining* of that King's Reign. (*o*)

But, to drop any further Inquiry (as Foreign to the preſent Purpoſe) whether Parliaments were held regularly from the Reign of *Henry* 2, and enacted their own Laws; or, whether the Laws of *England* were received by Proclamation and Inrolment only, until the *declining* of the Reign of *Edward* 2; let it be ſuppoſed, that the Parliaments of *Ireland* were *uſually* held from that Period, (*p*) and the Records ſay, by what Authority they were held; of what Members they were compoſed; and in what Forme or Method, Buſineſs was tranſacted therein.

The firſt Writ of Summons (it is thought) at this Day exiſting, is to be found in the ancient Regiſters of the See of *Armagh*, and bears Date at *Dublin* 1 *January* 1365 (39 *Edw.* 3.). The next that occurs, was iſſued 18 *June* 1369 (43 *Edw.* 3.) (*q*) "by the Lord Lieutenant "and Council;" and the Parliament was to meet at *Dublin*, on *Monday* before the Feaſt of St. *Peter ad Vincula*, "by the Aſſent of the King's Council, "to 1365. 1369.

## ANNOTATIONS.

(*o*) This Paragraph alone is ſufficient to refute Davies's Speech. See more in MOLYNEUX's *Caſe of Ireland*.

(*p*) Which alone would give them a ſufficient Eſtabliſhment in Law, without the Force of the Statute of the tenth of Henry the ſeventh, Chap. XXII.

(*q*) How Parlements were called and held, from the Regne of Henry the Second to that of this King, which makes the Space of about 265 Years, we are left to gueſs at. The Tenor of the Writ of Summons, at all Times, before and ſince, appears to be the ſame as in ANNOT. (*d*) (*e*) on p. 22.

" to treat about thoſe Things, which ſhould be " then expounded, on the King's behalf, in his " Parliament, there to be holden." *(r)*

The Writs, bearing Teſte 25 *March* 1374 (48 *Edw.* 3.) for a Parliament * to be held on *Saturday* after the Feaſt of the Holy Trinity enſuing, ſet forth, " That the King was minded to " ſummon a great Council, to treat and conſult " of certain urgent Affairs, concerning the State " and Realm of *Ireland*." And the perſons ſummoned, are commanded to attend perſonally, to treat and adviſe " about ſuch Things, as ſhall be " propounded by the Chief Governor and Council, " on the King's behalf." † 1374.

After

* The Number of the Commons, ſummoned to this Parliament, were Twenty; Six of whom were returned for the County and the City of *Dublin*,; in the ſubſequent ancient Parliaments, the Number was Sixty, or thereabouts; and in the Second Year of Queen *Elizabeth*, the Commons conſiſted of Seventy-ſix Members; of 232 in King *James* the Firſt's Parliament; of 254 in K. Charles the Firſt's; of 274 in K. Charles the Second's; and of 300 in K. William the Third's, 1692, which hath ſince continued to be the Number of that Honorable Houſe.

† Pat. Roll. 48 *Edw.* 3.

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*(r)* In this and the following Paragraph, great Streſs is layed on, *to treat and adviſe upon ſuch things as ſhould be expounded and propounded, on the King's Behalf, by the Chief Governor*, &c. ——The Summons, in the ſecond Paragraph, explanes this, *to treat and conſult of certain urgent Affairs, concerning the State and Realm of Ireland*, which were probably, as it is at this Day, in the next Kingdom, as well as in this, *propounded* in the Speech from the Throne, without preſuming to preclude, controul or circumſcribe the Power, Authority or Privilege of Parlement.

*(s)* But, if there had been any irregularity in the conduct or Procedings of theſe antient Parlements, it may be accounted for by the Ignorance of the Times and the ſmallneſs of the Number

After the concluſion of this Parliament, two Meſſengers were choſen, "by the Aſſent and Ordi-"nance of the noble Lord, Sir *William de Wynde-"ſore*, Governor, and the Council of *Ireland*, to paſs "into *England*, with certain arduous and urgent "Affairs, relating to the Neceſſity of *Ireland*, and "the King's Liege People, and to lay the ſame "before the King and Council in *England*; and "there to declare, proſecute, and expedite the "ſame, according to the deſire of the Council, "expreſſed in Indentures, perfected between "them." * *(t)*

King *Edward* 3 ſent his Letters Patent, dated at *Weſtminſter* 18 and 30 *June* 1375 (49.) by Sir *Nicholas Dagworth*, an Expreſs Meſſen- 1375.
ger, to the Parliament, then intended to be ſum-moned, "requiring them to grant him an Aid, to "aſſiſt him in his Wars with *France*." †——Accordingly, Writs were iſſued 18 *Auguſt* following, and the Parliament met at *Kilkenny* in the Octave of St. *Michael*, "by Advice of the Chief "Governor and Council, and in Conſequence of "the King's Directions, who had ſent certain Meſ-"ſengers from *England* to *Ireland*, to treat with the "Prelates,

* *Idem.*

† Pat. Roll. in *Birm.* Tower 49 *Edw.* 3. *facie*, No. 134. 135.

## ANNOTATIONS.

Number of the Repreſentatives, and can by no Means leſſen the Power or Authority of Parlement in more inlightened Ages.

*(t)* This is no more than what any wiſe and dutiful Governor ſhould at any time do; but cannot derogate from the authority, power, or privilege of Parlement.

" Prelates, Peers, and Commons of his ſaid " Land, concerning the State and good Go- " vernment thereof." † And Sir *Nicholas Dag- worth* then delivered the ſaid Letters Patent to the Parliament. * *(u)*

A Parliament was ſummoned 22 *Janu- ary* 1377 (1 *Ric.* 2.) to meet at *Triſtel-* 1377. *dermot*, and the Writs declare, " that it was to be " then held, by Advice of the Council of *Ireland*, " to treat of, agree, and conſent to ſuch Articles, " as ſhould then be expounded and declared on " on the King's Behalf." ‡ *(v)*

In 1380, King *Richard* 2, being mind- ed to hold a Parliament at *Dublin*, on the 1380. enſuing Morrow of *All Souls*, " by Advice of the " Lord Lieutenant and Council of *Ireland*, by " Reaſon of certain moſt urgent Cauſes, con- " cerning His Majeſty and the State of His " Land of *Ireland*," Writs of Summons were iſſued 11 *September*, " to treat of, agree, and " conſent, and to give their Counſel upon thoſe " Things, which, in the ſaid Parliament, on his " Majeſty's Behalf, ſhould be then propounded " to them." ‖ *(w)*

The

† Prim. *Suetman's* Reg. p. 49. d.
* Pat Roll. in Birm. Tower, 49 Edw. 3.
‡ Pat. Roll 1 Ric. 2.
‖ Pat. Roll. 4 Ric. 2.

## ANNOTATIONS.

*(u)* This is an extraordinary requiſition from the Crown, upon ſome great Emergency, ſent by an extraordinary meſſenger and delivered in an extraordinary manner. But affects not the conſtitution of Parlement, in *Ireland*.

*(v, w)* Thoſe are referred to the Annot. *(r)* on p. 30.

The ſaid King "having determined to call a "Parliament, by Advice of *Edmund*, Earl of "*March*, his Lieutenant and the Council, to "meet at *Clonmell* on *Monday*, after the Feaſt of "St. *Peter ad vincula*, on Account of many ur-"gent Affairs, relating to the State and Safety, "the Defence and good Government of *Ire-*"*land* *;" and the Lord Lieutenant dying ſoon after, the King, by Commiſſion, dated at *Weſt-minſter* 29 *March* 1382, authoriſed his 1382. Lieutenant, *Roger*, Earl of *March*, to ſummon a Parliament, with all poſſible Diſpatch; declaring, "That, without great Labour and im-"menſe Expence, he could not Suſtain and Main-"rain the Weight of Affairs, Incumbent upon "him, for the Rule and Safety of his Dominions, "and the Expedition of his Wars; that, by his "late Lieutenant's Death, it became Expedient "and Neceſſary, that a Parliament ſhould be held "for the good Government, Safety, and Defence "of *Ireland*; and, that having conſidered the "State of the ſaid Land, and the manifold Ex-"pences, neceſſary for the carrying on his Foreign "Wars, and having expounded the ſame to the "Parliament, they might diligently Treat and "Conſult in the ſaid Parliament, as well concern-"ing the good Government, Safety and Defence "of the ſaid Land, as the Support of the Bur-"then, neceſſary on his Part, for the Reaſons "aforeſaid, to be performed and fulfilled: And, "that he ſhould certify to his Majeſty in *England*, "with all poſſible Expedition, by fit Meſſengers, "to be choſen on the Part of the ſaid Parliament, "whatever ſhould be ordained, conſented to, and "enacted by the Prelates, Peers and Commons in "the ſaid Parliament †."——The Writs were iſ-

 ſued

* Pat. Roll. 5. Ric. 2.
† *Idem.*

ſued 29 *April* following, and the Perſons ſummoned, are required "to treat, conſult, agree, "and conſent to and upon thoſe Things, which "ſhall then and there be expounded and declared "unto them, on the King's Behalf *." And to the ſubſequent Parliaments of 1409, &c. the Writs of Summons are of the like Tenor. (x)

Theſe Publick Records ſhew, that the Antient Parliaments of *Ireland* were held by Commiſſions, under the Great Seal of *England*; (y) that Writs of Summons were regularly iſſued, in Virtue of thoſe Commiſſions; and it is alſo manifeſt, that ſo far were Chief Governors from being veſted with an arbitrary Power of holding Parliaments, (aa) (as generally aſſerted) that, after they had received Commiſſions for that Purpoſe, they could not transfer that Power, or depute any Perſon to ſupply

* *Idem.*

## ANNOTATIONS.

(x) This alſo may be referred to the ANNOT. (r) on p. 30. with this aditional ſhort obſervation, that the King wiſely threw himſelf upon his parlement, explaned his neceſſities, left it to his parlement to relieve them, and deſired ſpeedily to be informed of their determination, by his Governor, without offering any obſtacle or limitation to their deliberations, reaſonings or acts for the *good government, ſafety and defence of the State, and the ſupport of the burden, neceſſary on the King's part.*

(y) The intentions of the Crown, to call a parlement, could not otherwiſe be authenticated to the Viceroy; who muſt have iſſued the Writ of Summons under the great Seal of *Ireland.*

(aa) But that ſuch parlements were ſo held, the learned author is afterwards forced to confeſs, p. 40. as aſſerted in the *Conſtitution of Ireland, and Poyning's law explained.* And he cannot deny, that theſe, as well as the parlements called by the King's order, paſſed many Statutes, private and public, to which the Governors gave the royal aſſent in their own names, without conſulting their Soveregne.

ply their Rooms, upon neceſſary Avocations, without a ſpecial Licence from the Crown, under the Great Seal *; or by expreſs Ordinance of Parliament †.

The Writs of Summons further indicate, that the Privy Council, not only aſſiſted the Chief Governor in preparing ſuch Matters, as required the calling of Parliaments; but that they alſo actually ſat in the Upper Houſe of thoſe National Aſſemblies: For, Writs, of the like Tenor with thoſe directed to the Peers, were directed to them, "*qui ſunt de concilio Domini Regis*, or, *de Concilio Domini Regis exiſtentibus*," requiring their Attendance. It hath been objected, that the King's Council named in thoſe Writs, are the Gentlemen of the Long Robe, who attend by Writs, to aſſiſt the Upper Houſe with their Advice, when required. But, it is to be obſerved, that the Place aſſigned to the King's Council, was, to ſit among the Barons §; and in Proof of their being conſidered as a Part of the Legiſlature of this Kingdom, the following Inſtances, may be thought ſufficient. (*bb*)

"Memorandum, That where the Lord Juſtice, "Chancellor, Treaſurer, and others, the King's



"Coun-

* Pat. Rolls of 5, 9, 12, Ric. 2. &c.
† Parliam. Rolls. Sparſim.
§ Pat. Rolls, of 48 Edw. 3. 1, 4, 5 Ric.

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(*bb*) Had not this propoſition been groſsly abſurd and unworthy of his Excellency's amanuenſis, it might be thought of dangerous tendency. Such Writs of Summons now are, and always have been ſent, not to the *Privy Council*, but to the King's *Council, Judges, Maſters* in Chancery, &c. who are allowed ſeats by curteſy, but not voices, in the Houſe of Peers. Their ſitting among the Barons, perhaps thoſe of the Exchequer, or upon the Lords Barons', bench, is too trifling a circumſtance to be dwelled upon.

" Council in *Ireland*, and the Prelates, Peers, and " Commons, in Parliament aſſembled at *Triſtel-* " *dermot* this Year (1 *Rich.* 2.) among other " Things treated of and debated in the ſaid Par- " liament, how *Murgh O'Bryen*, &c *. (*cc*)

" Whereas the Officers of the Exchequer under " the late King *Edward*, the King's Grandfather, " have ſet forth by their Petition, preſented to " *Lionel*, Duke of *Clarence*, late Lord Lieutenant, " and others of the Council in Parliament aſſem- " bled at *Kilkenny*, in the fortieth Year of *Ed-* " *ward* the 3d, &c. And whereas the Officers of " the Exchequer, perſonally appearing before " *James* Earl of *Ormond*, Lord Juſtice, and others " of the Council, in a certain great Council, held " at *Triſtelderdermot*, on the Morrow of St. *Hilary* " laſt paſt," &c †. (*dd*)

" The Prior of the Houſe of St. *Patrick* of " *Downe*, in *Ulſter*, by Petition to the Earl of " *March*, Lord Lieutenant, and Council in Par- " liament aſſembled at *Dublin*, on *Saturday* the " Morrow of *All Souls*, 1380 §." (*ee*)

And by a Statute, in the Reign of *Henry*, 6, " It is ordained and eſtabliſhed, that, for the great

* Pat. Roll. 1 Ric. 2. † *Idem.*
§ Pat. Roll. 4 Ric. 2.

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(*cc*) This paragraph can prove no more, than an early inſtance of the ambitious and uſurping diſpoſition of the Privy Council; a diſpoſition which their ſucceſſors ſeem to have fully inherited; except the confuſion of thoſe dark ignorant days, in which certain Crown officers are ſayed to have made up a motly, medley parlement.

(*dd*) (*ee*) Theſe paragraphs prove a little too much—In the former, the ſtate officers and council make up onely the principal part of the parlement. In theſe, the parlement is compoſed of the Council alone; regardleſs of the Prelates, Peers, Proctors and Commons!

" great Succour and Support of this poor Land, " a Meſſage be ſent into *England*, to certify our " Sovereign Lord the King, and the Duke of " *York*, Lieutenant of this Land, of the great " Danger that hangs over this Land, by which " the ſame is likely to be totally ruined, if ſome " ſpeedy Remedy be not had out of *England*, for " the Prevention thereof. Of which Meſſage, " thus to be ſent, there ſhall be Six Perſons, that " that is to ſay, one for each of the counties of " *Dublin*, *Meath*, *Uriell*, and *Kildare*, one Prelate, " and one *for the King's Council*." *

The Tendency of theſe Records is evident. *(ff)* They not only refute the received Opinion, that " from *Henry* 2. to *Henry* 7. the King's Deputies " frequently held Parliaments, and enacted ſuch " Laws, as they thought *advantageous for the* " *Publick*, without any particular *Directions or* " *Authority* from the Crown for that Purpoſe." That, " Before the paſſing of *Poynings*'s Law, " the Chief Governors were ſo fully veſted with " the Regal Authority, that they were empowered " to give the Royal Aſſent to all Laws whatſoever, " *without communicating them to the King, or the* " *Miniſtry of England*." That, Parliaments were

* Parliam. Roll. 34 *Hen.* 6. *cap.* 8. not printed.

## ANNOTATIONS.

*(ff)* Here ſeems to be a Statute paſſed without a commiſſion from England. And it ſeems by this, that it was then judged, that no meſſage, to certify the King and his Lieutenant of the dangerous ſtate of the Realm, could be properly ſent into England, but by the authority of parlement. And here it appears, that the Commons ſent four meſſengers, the King's Council, but one.

" ſummoned at the Will of the Chief Gover-
" nors, and Laws enacted at their Inſtance and
" Pleaſure (frequently *deſtructive of the Publick*
" *Good) without any Warrant from* England, for
" holding the ſaid Parliaments, or any *Directions*
" from thence, relating to the Matters and Acts,
" to be conſidered of and paſſed by thoſe Parlia-
" ments." And that, " the only Motive for
" having this Law made was to prevent the Abuſe
" of that exorbitant Power of the Chief Gover-
" nors for the future." * † *(gg)*,—But further,

The foregoing Records, and the Commiſſions of Deputation, for holding Parliaments in the Governor's Abſence (1), diſcloſe the regular and uniform Practice of holding Parliaments in *Ireland*; *(viz.)* " That they were (2) held by Li-
" cence

* This Opinion ſeems to be founded upon the Recital in the Act of 11 *Eliz.* (printed I, 346.) " That there be no Bill certified into *Eng-*
" *land*, for the repeal or ſuſpending of *Poynings*'s Law." The Recital is, " Before which Statute, *when Liberty was given to the Governors*, under " your Majeſty's Progenitors, to call Parliaments at their Pleaſure." Whereas, the true Recital, agreeable to the Evidence here given, and to what will follow, ſhould have been, *when Liberty was taken by the Governors.* (*ii*)

† The Conſtitution of *Ireland* and *Poynings*'s Law explained, Page 7. ——Remarks upon *Poyning*'s Law, by a Gent. of *Ireland*, 1758, Page 7, &c.——*Ware*'s Antiquities by *Harris*, Page 87.——And other Writers on this Subject.

## ANNOTATIONS.

*(gg)* Though the learned amanuenſis conſiders theſe opinions, conſuted by the recited Records, he is forced to allow the truth of them, and even to ſupport them by the citing of Records, from this page, to the Annotations, p. 42. *(bb)*

(ii) Here the ingenious amanuenſis is pleaſed, upon his imaginary Evidence, to invert the recital of the Statute, and puts his Aſſertion in oppoſition to that of the parlement of Queen Elizabeth. Believe him who will.

(1) As far as they go, which is neither conſtant or certain.

(2) Sometimes, not always.

" cence and Commiſſion from the King (3), in " his Name, (4) and with his Knowledge of the " Cauſes and Matters (5), to be conſidered and " treated of; that he aſſembled his National " Council by Advice of the Chief Governor and " Privy Council; that (6) Petitions (7), now cal- " led Heads of Bills, were exhibited to the Chief " Governors and Council, for the redreſs of " Grievances, and the obtaining of Graces in the " ſaid Parliaments; that the Chief Governors " were to receive the Anſwers and Certificates, " which the Prelates, Peers, Clergy, and Com- " mons (8), ſummoned to the ſaid Parliaments, " ſhould make concerning the State of the Land; " and were obliged, from Time to Time, to lay " the State of Affairs before the King and Coun- " cil of *England*, by choſen Meſſengers; and to " receive *Directions* relating to ſuch Matters, as " concerned the King and the welfare of the King- " dom; which, after the Meetings of the Par- " liaments, were to be propounded, on the " King's behalf, for their Deliberation, and final " Determination, (9)."

Such

## ANNOTATIONS.

(3) Often otherwiſe.

(4) Sometimes in his name.

(5) Offered as conſiderations for calling a parlement.

(6) In days of darkneſs and ignorance.

(7) Not in the form of thoſe.

(8) Here he leaves out the Privy Council, whom, he before made the moſt eſſential part of, if not the intire parlement.

(9) And here, he, I ſuppoſe inadvertently, reſtores the lately degraded parlement, to it's lawful ſtate. For, it ſeems what one parlement propounded to the Governor and Council, they tranſmitted to the King, which, meeting with the royal approbation, fell again under the conſideration of the ſame, or ſome ſubſequent parlement, for their final Determination. And this, the Commons' journal ſhews to have been often the caſe.

Such was the Method of ſummoning and holding of Parliaments in *Ireland*, until the Civil Diſſentions between the Houſes of *York* and *Lancaſter*, ſo totally engroſſed the Attention of England, that the Conduct of Affairs in this Kingdom became almoſt, if not entirely, abandoned by the *Engliſh* Government, and reſted in the Chief Governors; who were neceſſitated to call frequent Parliaments, in order to preſerve the *Engliſh* Pale from the Ravages of *Iriſh* Enemies and *Engliſh* Rebels; who, taking Advantage of the diſtracted State of *England*, confederated to throw off all Subjection to the eſtabliſhed Government, and to attempt the Conqueſt of the Land, (10).

" So, as upon the End of theſe Civil Wars in " *England*, the *Engliſh* Law and Government " was well baniſht out of *Ireland*, ſo as no " Foot-ſteppe or Print was left of any former " Reformation." *

This extraordinary Power, ſo reſting in the Chief Governors, was by them exerciſed for ſome Years without Controul; and too often to the great Oppreſſion of the People (11). It is obſervable, that from the 16th to the 27th Years of *Henry* 6, the very Stile of the Writs of Summons is varied, (*viz.*) from being iſſued, *by the Advice of the Chief Governor and Council*, to that *of the Chief*

* Sir *J. Davies*'s Diſcoverie, &c. p. 158, Edit. 1762.

## ANNOTATIONS.

(10) Here he begins to offer proof, in ſupport of what he conſiders refuted, p. 38, (*gg*), and ſo proceeds on to p. 42, (*bb*).

(11) See the *Conſtitution of Ireland and Poyning's Law* explained, and *the Rights and Privileges of Parlement aſſerted*, &c.

*Chief Governor alone.* During this Period, the Deputy would call two or three Parliaments in a Year, and impoſe a Subſidy in each, generally of ten Shillings the Ploughland, for the defraying of his Expences, and rewarding of his Services, to be levied in the ſame Manner with the royal Subſidies; for, as "there came no Treaſure out of "*England* to pay the Soldier, the poor *Engliſh* "Subject did bear the Burthen of the Men of "Warre in every Place, and were thereby "ſo weakened and impoveriſhed, as the State "of thinges in *Ireland* ſtood very deſperate." *

Nay, ſo intollerable did this Impoſition at length become, that an Act, or Ordi- 1456.
nance was made, "That if Need required, "that of Neceſſity one Parliament or Great Coun- "cil ſhall be had before the Governor of the Land "for the Time being, that for the future there "ſhall be ſummoned but one Parliament or Great "Council within one year; and if the Chief Go- "vernor, for the Time being, ſhould cauſe the "King's Writs to iſſue to have one other Parlia- "ment or Great Council within the ſaid Year, "that then it ſhall be lawful for thoſe who are "ſummoned, to abſent themſelves, and not to "come to the ſaid Parliament or Council, ſo ſum- "moned, without incurring any Damage or Loſs: "And, that any thing done in ſuch Parliament or "Great Council, ſhall be void, and held of no "Effect, by Authority of this Parliament. (*i*) And "this Ordinance ſhall continue for three Years." †

——And, in the ſucceeding Reign (1479) among the Directions, ſent by King *Ed-* 1479.
*ward* IV. to the Lord Deputy *Kildare* for his Conduct, he is reſtrained from raiſing Money in

* *Idem*, p. 41. alſo p. 48.
† Parliam. Roll, 34 *Hen.* 6. *cap.* 6.

in an extraordinary Way. " *Item.* In no Parlia-
" ment to be holden hereafter, there ſhall no
" Subſidy be axed, ne granted in the ſame upon
" the Commons, ne levied, but one in a Yere,
" whiche ſhall not excede the Extent of ſeven
" hundred Mark, as has been accuſtomed." † *(hh)*.

But, further to evince, that the foregoing irregular and unauthorized manner of holding Parliaments, *(ii)* was no more than temporary, occaſioned by the Civil Wars; and that whenever the King was at leiſure to attend to the Affairs of *Ireland*, the Chief Governors were reſtrained, *(kk)* and the uſual Method adopted and purſued, the following Inſtances may ſuffice; and (connected with the Records already mentioned) diſtinguiſh *Poynings's* Act to be a declarative Law of the ancient *Uſage*, and enacted, chiefly for the Reſtoration of Parliaments to their priſtine State, the Prevention of future Abuſe, the Preſervation of the

† Patent Roll, 19 *Edw.* 4.

## ANNOTATIONS.

*(hh)* Where is the Commiſſion from the Crown to hold this Parlement of 1456, p. 41, *(i)*? Where is the Tranſmiſs? Were all theſe forms, before pronounced ſo eſſential, omitted here? Was not this, in all reſpects, a conſtitutional Statute? And were not theſe Inſtructions equally wiſe and juſt?

*(ii)* But this is rated among the *irregular* and *unauthoriſed* Parlements! Though neither this or any of the reſt recited, appear to have been condemned or repeled in the ſubſequent regne.

*(kk)* Throughout the *Conſtitution of Ireland*, &c. *explained, the Rights and Privileges of Parlement aſſerted*, this is maintained to be the chief, if not the ſole Motive of Poynings's law, confirmed by the Expoſitory ſtatute of Philip and Mary. See the later pamphlet, particularly p. 41, 69, 70, and 75. And ſure, no ſenſible ſubject wiſhes ever to ſee this juſt reſtraint on governors relaxed.

the *Engliſh* Government in *Ireland*, and the Reformation of the Kingdom.

*July* 1, 1441, the *Articles*, paſſed in the Parliament, holden at *Naas* that Year, 1441. were tranſmitted to *England*, with an humble Requeſt from the Parliament, "that the King "would graciouſly receive and remedy the ſaid "*Articles*, by the Advice of his right worſhipful "and wiſe Council." Theſe *Articles* were ſent by *Stephen Roche*, the Attorney General, "Meſ-"ſenger, choſen by all the Eſtates of the ſaid "Land, to come to your gracious Preſence with "certain *Articles*, touching the State of your ſaid "Land *enſealed Patent wiſe*, under your Great "Seal of your ſaid Land; beſeeching you hum-"bly of your high Grace, benignely to accept the "ſaid *Stephen* and *Articles*, and they graciouſlie an-"ſwered, to command the ſaid *Stephen* to repair "againe in godely haſte into your ſaid Land, to "the great Confort of all your liege People "there, moſt excellent and gracious Lord, *&c.* "Written at the *Naas*, the furſte of *Julye*.

"Your humble Subjectes and Liege Men,
"*James*, Erle of *Ormond*, Depute Lieu-
"tenant of your ſaid Land, and Lordes
"Eſpirituels and Temporells, Procu-
"rators, and Commones ther." (*ll*)

This

## ANNOTATIONS.

(*ll*) This is but a loyal requeſt of the Parlement to get certain Bills paſſed by the Crown. It is but what is now practiſed in every ſeſſion; onely with different meſſengers, and all that the gentlemen in oppoſition to the late and threatened meaſures of the miniſtry, contend for. It is however wonderful, how the amanuenſis, in reciting the Eſtates, who ſigned this Requeſt, omitted adding the Privy Council, which he elſewhere makes an eſſential Eſtate of the Legiſlature, if not the whole and ſole Parlement. See p. 35.

This Meſſage was accompanied with "*Inſtructions*, given by the Erle of *Ormond*, Depute Lieutenant of *Ireland*, and the Kinge's Counſeill there, to *Stephen Roche*, the Kinge's Attorney in the ſaid Land, to ſhew to the Kinge, our Sovereign Lorde and his Counſeill in *England*, according to the *Articles* that follows, and ben *enſealet Patente wiſe*, under the Kinge's Séale of his Land of *Ireland*." * (*mm*)

The ſaid *Articles* were the Acts paſſed; and the *Inſtructions* contained the *Articles*, required to be paſſed in the next Parliament; and both are *certified* and *tranſmitted* under the Great Seal. (*mm*)

Two Parliaments (*nn*) having been held, in oppoſition to each other, at *Naas* and *Drogheda*, and great Variances having thereupon enſued in *Ireland*, King *Edward* 4. not only "ſignified his Will, Determination, Commandment, and Pleaſure concerning them, and which of their Acts "ſhould

* Pat. Roll, 19 *Hen.* 6.

## ANNOTATIONS.

(*mm*, *nn*) This is a Precedent which the loyal people of Ireland wiſh to be always obſerved; that no Lieutenant of the King ſhould preſume to ſend over Bills for the royal approbation; otherwiſe than under the ſanction and authority of Parlement.

(*nn*) By what Authority did theſe two Parlements meet and ſit? It appears not, that the King authoriſed either. Yet, he cenſures neither, nor proteſts againſt their acts. He onely prefers and ratifies the acts of one; never diſputing the legality of the Governor's ſummoning and holding a Parlement. After which, p. 45, (*oo*) he directs what acts he judges neceſſary to be paſſed in the next Parlement, without preſuming to limit or controll their deliberations, or circumſcribe their power, privilege or authority. But, we find by the printed ſtatutes, Vol. I. p. 57. that the Drogheda Parlement is deemed void and of none Effect; and this, *at the prayer of the Commons*, without any apparent tranſmiſs.

" ſhould be eſtabliſhed; and particularly, that the " Subſidy, granted by the *Drogheda* Parliament, " foraſmuch as he underſtood, that it was granted, " and alſo in a great part levied, for the Wele and " Defence of His Land of *Ireland*, ſhould be good " and effectual; and (having been granted with- " out proper Authority) ſhould be alſo authorized " by the Parliament, now next to be holden." But wills alſo, " That a general Act of Reſumption, " from the firſt day of King *Henry* the Sixth's " Reign, be had and made in the next Parliament " touching his Revenues——and that ſuch Pro- " viſion be made upon the ſame by our Deputy " Lieutenant there according to his Pleaſure; " which our Pleaſure we have ſhewed unto our " right truſty and well beloved Couſin the Erle of " *Kyldare*, whom we have ordained to be Deputy " Lieutenant, and to the Reverend Father in God, " the Biſhop of *Meith*, whom we have ordained " to be our Chancellor."——His Majeſty wills alſo, that, " if any act had been made to his " Prejudice, and in Derogation of his Crown, in " reſtraining of *Tonage* and *Poundage*, it be utterly " revoked and annulled; and in the Parliament, " that ſhall be now next holden, the old Grant " thereof be renewed and eſtabliſhed, as ſhould be " beſt for his Right, Wele, and Honour." And then directs, " *what Acts ſhall paſs in the ſaid Par-* " *liament.*" * (*oo*)

This may be enough to ſhew the *Uſage* and *Manner* of holding Parliaments, before the making

* Patent Roll, 19 Edw. 4.

ANNOTATIONS.

(*oo*) See p. 44.

king of *Poynings*'s Law; it now remains to trace the *Uſage* from the paſſing of that Statute. (*pp*)

When King Henry 7, had defeated the firſt Attempt of the Dutcheſs of *Burgundy* (King *Edward* the fourth's Siſter) to diſturb his Government in *Ireland*, and had accepted the Submiſſion of his *Iriſh* Subjects, ratified by their Oaths of Allegiance, he took the deplorable State of the Kingdom into Conſideration, and endeavoured to provide for it's future Settlement: But, being interrupted in this great undertaking by a ſecond Impoſtor, (*qq*) he ſent Sir Edward Poynings, *a right worthy Servitor in War and Peace* † to expel *Warbeck*, to reduce his Adherents, and to hold a Parliament, that ſuch Laws, as, by the advice of his Council of *England*, he had prepared to reform publick Diſorders, to reſtrain future Exceſſes, to extend the courſe and execution of the Law through the whole Land, and to eſtabliſh his Government, might be deliberately conſidered, concluded upon, and enacted by his ſaid Parliament.

That the Acts, to be paſſed by this intended Parliament, were thus prepared by the King, before Sir *Edward Poynings* left *England*, may be concluded from His Majeſty's Letter to that Governor, relating to the Act of Reſumption, dated at his Manor of *Shene*, 4 *May* 1495. "Where "we

† Diſcoverie, &c. p. 159.

ANNOTATIONS.

(*pp*) This does but ſhew, that, at ſometimes, not always, Bills or Articles were ſent by Parlement to the Crown for Approbation, before Poynings's law paſſed.

(*qq*) The reception, given theſe Impoſtors, ſerves to give an early, extraordinary proof of the loyalty and credulity of the Iriſh, who always fatally adhered to the now happily exploded notions of a divine hereditary right.

" we by the Advice of our Council, at your De-
" parture from us into our ſaid Land, ordained
" and appointed, that at our next Parliament,
" then to be holden in our ſaid Land of *Ireland*,
" an Act of Reſumption ſhould be had for us, in
" certain Forme, put in Writing, ſigned by us,
" and *to you delivered.*" * (*rr*)

Among thoſe Acts, the firſt upon the Record of that Parliament (after the three uſual General Proviſions for the Liberties of the Church, of the Kingdom, and of all good trading Towns) is an Act of Supply, paſſed " at the Requeſt and Sup-
" plication of the Commons of this Land of *Ire-*
" *land*," (*ſſ*) whereby Coigne and other *Iriſh* Exactions are aboliſhed, " and a Subſidy granted of
" 26s. 8d. out of every ſix ſcore Acres of arable
" Land occupied and manured; to be levied, as
" it hath been cuſtomably uſed in Times paſt, to
" be diſcharged of Coigne and Livery and Paie, and
" of other unlawful Impoſitions, &c. to be had
" and

* Parl. Roll, 10 *Hen.* 7. *cap.* 11.

## ANNOTATIONS.

(*rr*) It has never been diſputed, that the King had a right to propoſe the inacting of laws, to his Parlements. This has always been done and is the practice at this day, as appears by the ſpeeches from the throne. But the *act of Reſumption alone*, and none of the other *acts*, is given in charge to the Governor. Which is this Candor or Fraud in the Amanuenſis?— This runs thro' the next following paragraph.

(*ſſ*) Can there be a ſtronger proof of Poynings's law being calculated onely to reſtrain the power of the chief Governors, not of the Parlement? can there be a ſtronger proof or acknowledgment of the Commons' ſole and excluſive right of taxation, than tranſmitting a bill of ſupply, in this regne, beginning with the *requeſt and ſupplication of the Commons?*— Whenever they have paſſed ſuch a tranſmitted bill, it is probable they were induced by this form being obſerved. But, tho' this act of ſubſidy appears, from this authority, which ſeems doubtful, if not falſe; to have been tranſmitted, in five years after, another was paſſed, which appears not to have been tranſmitted. p. 48, (*tt*)

" and perceyved from the Feaſt of *Eaſter* 1495,
" unto the full end and term of five Years then
" next enſuing." To which is annexed this Proviſoe. " Provided alway, that the Lieutenant
" and Deputy of this Land, and the King's Coun-
" cil of the ſame, for the time being, at all times
" neceſſary and requiſite, have full Power and
" Authority, after their Diſcretion, to add and
" enlarge more Acres of Land unto every ſix
" ſcore Acres of arable Land, not being fertile
" as other Acres be, whereof every Acre exceed
" not two pence, or under that Sum, that the
" value of the number of ſuch Acres of arable
" Land, being of ſmall value, be made and ex-
" tended Egal, and according in Valure unto ſix
" ſcore Acres of Arable Land being good and
" fertile." *

Before the Expiration of this Act of Subſidy, another was paſſed by the Parliament of 1499 (15 *Hen.* 7.) as will follow. For, although the Tranſmiſſes of the Bills, paſſed in the ſucceeding Parliaments of *Henry* 7, are not now to be recovered; yet the Preſumption *(tt)* is, that the Bills were certified and tranſmitted, in conformity to the Method, preſcribed by *Poynings*'s Law; indeed, 'tis

* This Act is not printed. The Preamble is incorrectly publiſhed in Sir *John Davies*'s Diſcoverie, &c, Page 132. Who alſo writes (Page 161) " To abundance the Profites of the Crown; firſt he obtained a Subſidy " of 26 s. 8 d. out of every ſixe ſcore Acres manured, payable yearly for " five Years. Next, he reſumed all the Crown-land, which had been " alienated (for the moſt part) by *Richard*, Duke of *York*: and laſtly, he " procured a Subſidy of *Pondage*, out of all Merchandizes imported and " exported, to be granted to the Crown in perpetuity."

## ANNOTATIONS.

*(tt)* Here the zele of the Amanuenſis ſeems to have eclipſed his Judgement. Who is to truſt to his *Preſumption*, where the proof is to be reſted on *Records* alone? p. 49, *(uu)*.

'tis abſurd to ſuppoſe the contrary (viz.) that Bills, within five Years after the making of that Law, ſhould be prepared and paſſed in direct Violation thereof, when we find it to be punctually obſerved at the diſtance of twenty Years. *(u u)*

No Argument can be drawn, in ſupport of ſuch a Suppoſition, from the printed Statutes. *(v v)* The two Acts of the 14th and 15th Years of *Henry 7*, * are ſaid to be no more than *Extracts* from the Parliament Roll. They both paſſed in the ſame Parliament, and at the ſame Time, (viz.) at *Triſtyldermot*, on *Monday* 26 *Auguſt* 1499 (15 *Hen.* 7.) where the Parliament was begun and concluded. The former is, (as the Extract ſets forth upon the Roll) "An Act to enforce the *Engliſh* Acts of Par-"liament for puniſhing of Cuſtomers, Comptrol-"lers, and Searchers, for their Miſdemeanor or "Negligence in their Office; or, for the Puniſh-"ment of Merchants and their Factors; or, for "the good ordering of them; be put in Executi-"on by the Officers of this Land, in like manner "as in *England*, after they be proclaimed in *Dublin* "and *Drogheda*, and other Market Towns, to the "Intent that Merchants may know what thoſe Acts

* They are ſo printed in the Statutes, I. 57, 58, as if paſſed in diſtinct Parliaments.

## ANNOTATIONS.

*(u u)* A ſtrict attention to the reſtrictive ſtatute, might no more have been thought now neceſſary, than it was in the regne of Henry the eighth and Elizabeth, when that ſtatute appears to have been more than once, neglected or diſregarded, ſuſpended or repeled, from the confidence repoſed in the Chief Governor, who, alone was reſtrained in his power by Poynings's law. See the Conſtitution of *Ireland*, &c.

*(v v)* Here our ingenious author calls upon us to take his bare *Aſſertions*, as before, his *preſumption*, for proofs equal to records!

" be, and the Peynes of the ſame." And the latter, " A Duty granted to the King and his Heirs, " of twelve Pence, out of every twenty Shillings " worth of all manner of Merchandizes and " Wares, imported to be ſold in *Ireland*; and the " ſame Duty for Goods, to be exported to be " ſold Abroad, except Wine and Oyl." Three other Acts (not printed) paſſed at the ſame Time, one of which is " for a Subſidy, granted to the " King *." *(w w)*

The holding and concluding of Parliaments at one Place, and in a few Days (as was frequently the Caſe) is a preſumptive Proof, *(x x)* that the foregoing Acts were prepared and paſſed purſuant to the Directions of *Poynings*'s Law; but this preſumptive Proof is only offered as an Anſwer, proportioned to the Arguments, advanced to the contrary by ſeveral Hypothetical Writers; for the Proof reſts not there. The following Act is poſitive, and not only accounts for the Reaſons, upon which *Poynings*'s Law is founded, but that the acts were previouſly prepared and certified purſuant to that Law.

1495. For, in this very Parliament of the Tenth of *Henry* 7. held by Sir *Edward Poynings*, the 24th Act is of the following Tenor. " *Item.* " Foraſ-

* Patent Roll, 10——14 *Hen.* 7.

## ANNOTATIONS.

*(w w)* The Amanuenſis offers no proof from Records, that any of the three recited act were tranſmitted. And, we find the firſt and ſecond in the printed Statutes, *Item, at the Prayer of the Commons*, &c.

*(x x)* Here again, we are to take *preſumptive*, for *poſitive*, proof. And thus we find our author *States the Uſage of Parliament from Records!*

" Forasmuch as the Land of *Ireland* hath long " been out of Order, and now of late noo manner " Order, ne Justice was had there, but robbyng, " bernyng, murdryng, ravisshing of Maydens, " Wyfes, and Wedows, forcible Entrees, and " many other great and manifold Offences and " Inconveniences, universally through all the said " Land; by reason whereof the same Land, for " the mooste partie, is finallie destroied and wastyd; " the King, our Sovereign Lorde, having Pyte " and Compacyon on his pore Subgetts of the " same, and to have it reducyed to his hole " Obeisauns, *have, by the Advice of his mooste noble* " *Counseill, ordeigned divers and manie noble Actys,* " *that shall pass in his next Parliament to be holden* " *in the seid Lond.*" &c. * (xx)

The before mentioned " Act of Sub- " sidy (passed in 1499) being expired, and 1508. " not to be levied without a new Authority," a Parliament was called, in virtue of the King's Commission and Command, under the Great Seal of *England*, and met at *Dublin* on *Friday* after the Feast of St. *Michael* 1508 (24 *H.* 7.) only to renew the said Subsidy of 13 *s.* 4 *d.* upon the Ploughland, for Ten Years, " in consideration, that without " the said Subsidy, the King's Subjects of this His " Land may not convenientia be defended." And the Act concludes with giving the King an absolute Power over this Subsidy by " providing, that if " this Act or Grant of Subsidy be thought by our

* Parliament Roll, 10 *Hen.* 7. not printed.

## ANNOTATIONS.

(xx) This proves no more than the Wisdom and parental care of the king, who gives notice to this parlement, what laws he judges necessary for the common weal, to be passed in the succeding parlement.—Who does not wish that all his successors had equal attention and care of the subjects of *Ireland*.

" Sovereign Lord the King and His Council, hurt-
" ful or prejudicial to his Subjects of this Land,
" that then our ſaid Sovereign Lord ſhall, at his
" Will and Pleaſure, reform, diminiſh, extinct,
" adnulle, or revoke the foreſaid Grant of Subſidy,
" in Part or in hole, the foreſaid Grant or Ordi-
" nance for Ten Years notwithſtanding." * (yy)

In direct Conformity to *Poynings*'s Law,
1515. 20 Years after the making thereof, King *Henry* 8. by Commiſſion, dated at *Weſtminſter* 7 *Oct*, 1515, (7 *H.* 8.) authorized His Deputy, *Gerald* Earl of *Kildare*, " by Advice and Aſſent of his
" Council, to hold a Parliament within one Year
" from the Date of the ſaid Commiſſion, and to
" diſſolve the ſame within one Year from the Day
" of its Commencement; and with his ſaid Parlia-
" ment." (I chuſe to give the Words of the Commiſſion) " de et ſuper certis ſubſequentibus *Arti-*
" *culis*, et in hiis preſentibus noſtris Literis ſpeci-
" fice infertis, *et non aliis*, tractandi, communi-
" candi, et interloquendi; et ſuper eiſdem *Arti-*
" *culis*, tum ſic communicatis, tractatis, et concor-
" datis, concludendi, Aſſenſumque et Auctorita-
" tem, nomine noſtro, præbendi, &c. Tenor vero
" prædictorum *Articulorum* ſequitur, et eſt talis."

Accordingly, the Lord Deputy held the Parliament at *Dublin* on *Monday* 25 *February* following. The

* Parliament Roll, 24 *Hen.* 7. Being the only Act, beſides the three uſual Savings of the Liberties of the Church, &c. This act is not printed.

## ANNOTATIONS.

(yy) Here is no more than new proof of the wiſdom and care of this king. He calls a parlement to provide for the defence of the kingdom, which could not, *convenientia*, be done, without renewing the former ſubſidy. The benevolence, indeed, of the king appears ſuperior to that of his predeceſſors and ſucceſſors: For, by a proviſo, in the act, he is impowered, if the tax be found burdenſome, to moderate or relinquiſh it. O! that this example were followed!—How does this ſerve the purpoſes of Adminiſtration?

The Tranſmiſs contains nine Bills, (of which the third only is printed, I. 59.) the firſt is a Subſidy Bill of 13 *s.* 4 *d.* the Ploughland for ten Years, after the Expiration of the foregoing Act, and begins thus, "Ferſt, pray the Comynes," &c. and "be "it therefore enacted and eſtabliſhed by Authori-"ty of this preſent Parliament, that," &c. ——— After the Acts, the Commiſſion is thus continued, "Et ideo vobis mandamus, quod circa Premiſſa "diligenter intendatis, et Ea juxta formam vobis "commiſſam et ſuperius inſertam, *et non aliter*, "faciatis et exequamini." * *(zz)*

* Evidences of his Grace, the Duke of *Leinſter*'s Family, p. 122. a curious Manuſcript.

## ANNOTATIONS.

(zz) The Amanuenſis judges, that this and the preceding paragraph give matter of great Exultation to his employers, and all thoſe who wiſh to inſlave this and the other appendages of the Britiſh Empire. This is the onely inſtance, where the king has preſumed, to attempt, with a *non aliter*, to reſtrain the deliberations or the procedings of parlement, tho' he undoubtedly might and ought to have circumſcribed his Lieutenant's power, by a *non aliter*. This gentleman muſt ſurely be too ſenſible to imagine, that any arbitrary dictates of the Crown can limit or control the power of any court of law, and leſt of all that of the high court of parlement. This deſpotic tyrant was the firſt, and thank God! the laſt, that attempted it. It appears not from any Statute or Record yet cited, that his mandate was obſerved, and if it did, the ſingle, illicit precedent cannot be ſuppoſed to have altered the Conſtitution, giving the utmoſt ſcope to Poynings' law, ſince expounded by that of Philip and Mary. By which expoſitory Statute, as well as other circumſtances, it appears, that the Conſtruction of that Statute had not been determined in that regne: But the Legiſlature aſcertains it's true original meaning, when they recite, *Sithence the making of the ſaid Act, diverſe and ſundrie ambiguities and doubts have been made and riſen upon the true underſtanding and meaning of the ſame, for the avoiding of which, and for a full and plain declaration of the* TRUE MEANING *of the ſame*, and then procede to the now eſtabliſhed Conſtitution. Statutes, Vol. I. p. 246.

No Tranſmiſſes remain of the Acts, printed in the Statutes of the 13th, 25th, 33d, and 34th Years of *Henry* 8, but thoſe of the 23d and 28th Years are yet preſerved. *(A)*

1531. The Commiſſion for holding the Parliament in the 23d Year, is dated at *Weſtminſter* 16 *May* 1731, and gives the Deputy a Power with the ſaid Parliament "de et ſuper certis ſubſequentibus *Articulis* et Proviſionibus, in "hiis preſentibus Literis noſtris ſpecifice inſertis, "*et aliis per nos mittendis quando et quotiens durante* "*termino dicti Parliamenti* nobis videbitur [magis "expedire] tractandi, communicandi, et enterlo-"quendi."———This Tranſmiſs contains ſeven Bills, the Firſt of which is a Subſidy of 13 *s.* 4 *d.* the Ploughland for ten Years from the Firſt Day of this preſent Parliament; and begins, "prayen "the Commons." * *(B)*

The effects of *Poynings*'s Law, by reſtraining the Tranſmiſſion of Bills after the Commencement of Parliaments, ſeems to have been ſenſibly felt at this

* Tranſmiſs.

## ANNOTATIONS.

*(A)* The Amannenſis would have us believe, there were tranſmiſſes for the Acts of the 13th, 25th, 33d, and 34th years of the regne of Henry eighth. But is it not as probable, that they were omitted, as Poynings' law was often diſregarded, ſuſpended or repeled in this regne?

*(B)* Here it appears then *non aliis* and *non aliter*, p. 43, 44, gave offence; therefore theſe reſtrictive words were omitted in this commiſſion and power reſerved to treat of, &c. *Such other articles as ſhould be tranſmitted by the king during the continuance of the ſayed parlement*: The practice ſince eſtabliſhed by the Statute of Philip and Mary. It is further obſervable, that the ſubſidy, granted to Henry, was *prayen the Commons*, &c.

this Time; for, the foregoing Words, *et aliis per nos mittendis*, &c. intimate a Power or Licence of tranſmitting Bills during the Continuance of the Parliament, notwithſtanding that Law. This Licence we find expreſly provided for, in the Parliament of the 28th Year, not by a *repeal of Poynings's Act*, as it is ſtiled in the printed Statutes, (I. 89.) but by a temporary Suſpenſion thereof relative to *that* Parliament only, or, as the Title runs in the Tranſmiſs; "The Acts of *this* Parliament to be "good and effectual, notwithſtanding *Poynings's* "Act, or any other Act to the contrary." *(C)*

The Commiſſion for holding this Parliament of the 28th of *Henry* 8. is dated at *Old-Foorde* 13 *September* 1535 (27 *Hen.* 8.) and the Tranſmiſs contains twelve Bills, one of which is an Act of Subſidy: And the Reaſon for diſpenſing with *Poynings's* Statute (as aforeſaid) is affixed immediately preceding the Commiſſion ſubſequent to the Bills tranſmitted, and without the leaſt Proviſo *, in the printed Statutes. That Proviſo being added (as it ſeems) after the Tranſmiſſion of the Act from *England*, and being dubiouſly expreſſed, is explained by an Act of the ſame Year (Statutes, I. 157) not "declaring the Effect of "*Poynings's* Act;" as it it entitled in the printed 1535.

* Tranſmiſs.

## ANNOTATIONS.

*(C)* Here, the neceſſity of a ſuſpenſion or repele of Poynings' law firſt ſeemed to be found neceſſary. And this, probably layed the foundation for the expoſitory Statute of Philip and Mary, as it did for a temporary repele of the former, regardleſs of the later act, in the regne of Elizabeth. See the *Hypothetical Writers* on the *Conſtitution of Ireland*, &c. explained, and *the Rights and Privileges of parlement aſſerted*, &c.

Statutes, but "expounding and declaring what "was meant by adding *that* Proviſo to the ſaid "temporary Suſpenſion of *Poynings*'s Law, relating "only to the Acts of *that* Parliament." And this explanatory Act doth not appear to have been tranſmitted, but to have been occaſionally made in virtue of the foregoing Act, intituled, "The Acts "of *this* Parliament," &c. to provide againſt the Impeachment of the Acts of *that* ſingle Parliament. *(D)*

1537. In conſequence and virtue of the ſaid Suſpenſion, a ſecond Tranſmiſs is dated at Berechurche 30 *July*, 1537 (29 *Hen.* 8.) containing nine Bills; with Directions, "that the Tenors "thereof, being inſpected and underſtood, the "Lord Lieutenant ſhould proceed to the full Per-"fection thereof, with the Aſſent of the Peers and "Commons in the Parliament of the ſaid Land, in "the uſual Manner and Forme, and with that "Diſpatch, which of Right, and according to "the Law and Cuſtom of the ſaid Land, he might "do." * *(E)*

1540. Although no Tranſmiſs of the Bills of the 33d Year of *Henry* 8. remains now upon Record, yet the previous Preparation of the Bills is fully explained in the King's Letter of Licence for calling that Parliament, dated at *Windſor*, 5 *Novem-*

* Tranſmiſs.

## ANNOTATIONS.

*(D)* This ſhews, 1. that the parlement made proviſo's and alterations in the Acts tranſmitted. And, 2. that an Act was now paſſed, without tranſmiſſion.

*(E)* This is but an obſervance of Poynings' law, ſtricter, perhaps than uſual.

*November*, 1540, wherein His Majeſty writes, "Fourthlie, touching oure Parliament to be holden "there, foraſmuche as it is thought mooſt conve-"nient to us and oure Counſaile, that the ſame "ſhall be kept in the *Lent* Seaſone, being a Tyme "moſte propice and mete therefore for ſoundrie "Reſpects, we have at this preſent ſent unto "youe oure Lycence, undre our Great Seall, for "the ſummonying of the ſame, to begyne *in "craſtino Purificationis* next comyn, whiche our Plea-"ſure is ye ſhall put in Execution accordinglie. "And as to the *Articles* engroſſed, to be ſet forth "and paſſed in *Actes* in our ſaide Parliament, "whiche *ye have ſent unto us*, we have forborne "to remytt and ſend agayne to youe; as well be-"cauſe ye have not ſent unto us the hole content "of ſouche Acts, as *ye intend to ſet forthe in our "ſaid Parliament*, as for that we have not receyved "from youe the the *Tranſumpte* of ſuche Acts, as "were paſſed in our laſt Parliament there, whiche "are very neceſſarie to be conferred and peruſed "by our Counſaill here. Wherefor our Pleaſure "is, that ye ſhall not onelie ſend unto us bothe "the ſaide *Tranſumpte, and the reſydue of your Acts, "now to be ſett forth in this next Parliament*, to be "firſt conferred and conferred and debated here "by oure ſaid Counſaile; but alſoo, that ye ſend "unto us therewith oure Sergeant, oure Attorney, "or our Sollicitour there, or ſume other Perſon "learned, being ryped and ſufficientlie enſtructed "to aunſwere to all ſouche Poyntes, as in the "ſame ſhall appier unto us, or our Counſaile "here, to be doubtefull or ambiguous; and then "ſhall we thereupon remytt and ſend agayne "unto youe, with the ſaid Perſon learned, whom "ye ſhall ſoo ſend hither, all the ſaide Acts, *with "oure further Pleaſure in the ordering of the ſame*, with

" with ſuch diligence, as ye maye procede to the " holding and commencement of our ſaide Parlia- " ment at the Daye appoynted." * *(F)*

And, with reſpect to the Parliament 1542. held 34 *Hen.* 8. an Act " for the Con- " firmation of Leaſes, made by the King's Com- " miſſioners, under the Great Seal, having paſſed " without being certified to *England*, and thereby " paſſed out of Order and Courſe, our Pleaſure is " (ſaies the King, in his Letters from *Greenwich* " 8 *October* that Year) to have that revoked, be- " cauſe we would not that in any wiſe the ſame " ſhould remain for a Precedent hereafter." † *(G)*

And though no Subſidy Bill of that (34th) Year is printed, yet it is evident, that ſuch a Bill paſſed; for the King, in his Letters from *Weſtminſter*, dated 5 *March* 1542, writes, " We ſend unto " you herewith the Acts, for our Subſidy, and " for our aſſurance in the Honour and Caſtle of " *Dungarvan* ‡." Which Act is printed in the Statutes, (I, 237.) *(H)*.

No

* Patent Roll, 32, 33 *Hen.* 8.
† Same Roll.
‡ Patent Roll, 34 *Hen.* 8.

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*(F)* This is the ſame with the former, p. 48, *E*, with this remarkable difference, that no Tranſmiſs appears. And tho' the deſpots' directions may ſtand upon Record; there is no proof, that they were obſerved, from the five Statutes printed of this date.

(G) This onely ſhews, that particular attention was, ſometimes, payed to Poynings' law.

*(H)* The zele of the Amanuenſis for the cauſe, in which he is employed, appears extravagant indeed, in this poſitive Aſſertion, that *it is evident an act of Subſidy paſſed, becauſe the King writes that he tranſmitted one*; although no ſuch act appears in print

No Parliament was held in the Reign of *Edward* 6; but in the ſucceeding Reign, 1556. the State of Affairs in *Ireland* being declared to King *Philip* and Queen *Mary* by the Lord Deputy *Fitz-Walter* (after Earl of *Suſſex*) their Majeſties, 4 *February* 1556 ſent Letters from *Greenwich* to the Parliament, then about to meet, returning thanks for their Services hitherto performed to the Deputy; acquainting them with the tranſmiſſion of the Bills to be paſſed, and recommending a proper behaviour to them in Parliament *(I)*. The tenor of that part of the Letter is as follows. "Having "underſtood and conſidered the good Orders and "Succeſſe, that our Deputie hath taken and had "in our Service, for the tyme of his chardge "there, both in expulſinge of the *Scottes*, plaginge "of our Rebelles, and reducing that diſorderede "Realme to better State of goode Rule and "Tranquilitie, than it was lately in; in whiche "parte our ſaid Dupitie hath, from tyme to tyme, "by his Letters and other weyes, given us full "notice, that youre diligent, Aide, Counſaill, "and goode Service never failed in his aſſiſtance; "we ſett you wete, that we not onelie accepte "the ſame right thankfullie towardes our ſaide "Deputie, but alſo give youe, and everie of "youe, as youe have well deſervede, our righte "hartie thankes.

"And like as, excepte the ſaide good Orders, "nowe well begonne, be with contynuance "ſemblablie

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print or upon Record? Is it not as likely, that the Commons of that reigne, as well as the Commons in that of William or George the third rejected ſuch a bill, and for the ſame reaſons?

*(I)* A remarkable act of Grace and Condeſcenſion, worthy of Imitation. But what then? ——— See p. 55.

" ſemblablie kepte and followed, the Fruite of
" his and your owne Travailes in this Parte can
" in the ende not fullie aunſwer to our Expecta-
" tion and yours. And that the particularities of
" the manifolde Diſorders and Defaults there be
" not unknowne unto your Wiſdomes, for the
" perfite Reformation whereof the juſt Feare,
" Love, and Honour of Almightie God are firſt
" and principallie to be conſiderede, and revived
" by ſome newe Orders and Lawes; for eſtabliſh-
" inge of whiche, and of others, neceſſarie as
" well for the Advauncement, Mayntenaunce,
" and Defence of the Comen Weale, as the ne-
" ceſſarie Recoverie and Reſtitution of our auncient
" Rightes, Revenewes, Regalities, Prerogatives,
" and Obeyzaunce, of late Yeares muche dimi-
" niſhed and neglectede, the Tyme, Place, and
" Authoritie of Parliament is nowe verie propice
" and convenient; even ſo, foraſmuche as our
" ſaide Deputie hathe, *by our Commaundement, with*
" *the Advice of our Counſaille there*, traveled verie
" diligentlie, painfullie, and prudentlie to *deviſe*
" *diverſe goode and neceſſarie Lawes, by hymſelfe and*
" *our ſaide Counſaill there, mete to be paſſed at this*
" *ſaide Parliament*; for whiche purpoſe he ſent
" them hether, to be reviſede and conſiderede by
" us and our Counſaill here, whiche is done, and
" the ſame remitted thether, as appertaynede.
" Therefore, havinge yourſelfs gravelie, pru-
" dentlie, deliberatelie, and frelie conſiderede the
" ſame Acts and Lawes, and the Matters therein
" conteyned, in ſorte as the ſame maie paſſe by
" Authoritie of Parliament, to God's Honor and
" our's, for the advauncement of the Comen
" Weale; We heartelie pray, and nevertheles
" require, and chardge youe, and everie of youe,
" not onelie for the Execution thereof, but for the
" Execution alſo of all other goode Lawes and

" Statutes

" Statutes, yet ſtandinge in Force, to the utter-
" moſt of your Poures, Conynge, and Wittes to
" give ſuche further Aſſiſtance and Helpe to our
" ſaide Deputie, and other our Miniſtres, as ap-
" pertaynethe, ſpeciallie in your owne Countries,
" Rules, and Offices; and namelie, ſuche Lawes
" as are, and ſhall nowe be provided for Ad-
" vauncement of common Juſtice, &c*.

The Commiſſion for ſummoning this Parliament, and the Warrant for " paſſing 1557.
" ſuch Acts, as ſhould be therein agreed and con-
" cluded upon," bear date at *Greenwich* 2 *April* 1557 (3 & 4 *P. & M.*) the Tranſmiſs contains 25 Bills, of which the 5th is the Act, " Declaring
" how *Poynings*'s Act ſhall be expounded and
" taken;" and the 7th is " an Act of Subſidy †," which is printed in the Statutes, I. 3. Z z z 3. (*J*)

It may be noted here, that this Parliament, having added Proviſoes to ſome of the tranſmitted Bills, took the ſame liberty with the Bill, expounding *Poynings*'s Law, by adding a Proviſo, to prevent that

* Patent Roll, 3 & 4 *Ph. and Mar.*
† Tranſmiſs.

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(*J*) In a tedious recital of a letter, which takes up three pages, we are told, the King and Queen thank the Parlement, inform them of the Laws recommended to be paſſed, and require the Members to attend to the obſervance of ſuch Laws, as are or ſhall be provided, &c. It is obſervable, that this ingenious Amanuenſis makes ſuch a capital error in chronology, as ſtrikes deeply at the credit of him or the Records, he cites: He agrees with hiſtory and the Statutes, that the onely Parlement of Philip and Mary was held in the third and fourth years of their regne. Yet makes he the Commiſſion, for calling this parlement, bear date, the 2 April, 1557; the year *after* the ſitting of this parlement, and the laſt year of that regne! And of the twenty five bills, he ſays, were certified, ſiveteen onely paſſed into Laws, according to the Statutes, Vol. I. p. 240, to p. 274.

that Act from extending "to the defeating or "hindrance of any the Proviſoes, made in this "Seſſion of this preſent Parliament."——It may be alſo obſerved, that in the tranſmitted Bills were frequently left Blanks, relative to particular Times, Places, Numbers, &c. to be ſupplied by Parliament. *(K)*

The Second Tranſmiſs of this Reign is dated at *Weſtminſter* 2d *October* 1557. (4 & 5 *P.* & *M.*) and contains five Bills, "which their Majeſties "had now lately received from their Deputy, as "profitable and neceſſary Bills, to be conſidered "and treated upon in the ſaid Parliament, which "they alſo thought to be very needful for the "Common Weale of their ſaid Realm; and did "therefore return them annexed therewith, under "the Great Seal of *England*, ſignifying their Plea-"ſure and Commandment to be, that he ſhould "likewiſe cauſe them, to be conſidered and treat-"ed upon in the ſaid Parliament, and to ſuch "and ſo many of them, as ſhould be agreed and "concluded upon in the ſame, to give and de-"clare their Royal Aſſent, by virtue of their for-"mer Commiſſion, in ſuch Manner and Forme, "as

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*(K)* The candor ſhewn in this paragraph may make attonement for paſſed miſtaken Zele, Inadvertencies and Errors. Since it ſhews, that in this regne, otherwiſe tyrannical, the parlement was juſtly permitted to deviate from the tranſmiſſes, and what is more remarkable and an example worthy of imitation, that *Blanks were frequently left in the* Tranſmiſſes, for *times, places, numbers, &c. to be ſupplied by Parlement.*—No wonder then, that Bills of ſupply, thus framed, worded and preſented in the name of the Commons, who alone were authoriſed to fill the blanks, ſhould meet with an eaſy paſſage thro' both houſes of parlement.

" as if they had been annexed with the ſaid Com-
" miſſion of their Royal Aſſent." * (*L*)

Queen *Elizabeth* by Commiſſion, dated at *Weſtminſter* 18 *Oct.* 1559 (1 *Eliz.*) authorized the Lord Deputy *Suſſex*, to ſummon and hold a Parliament, and tranſmitted twelve Bills, annexed to that Commiſſion, and the Parliament ſat 12th *January* following. The Subſidy, granted in the preceding Year for ten Years, was now ſubſiſting, and rendred the framing of an Act of that kind unneceſſary; but in lieu thereof, that the Cuſtom of granting a Revenue to the Crown, upon the ſummoning a Parliament, might be preſerved, the firſt Bill tranſmitted is " the Act for the Reſti-
" tution of the late Priory or Hoſpital of *St. John's*
" *Jeruſalem* in *Ireland*, and of all the Manors,
" Lordeſhips, Commaundries, and Hereditaments
" of the ſame, to the Ymperiall Crowne of this
" Realme." * *(M)* 1559.

The Commiſſion, directed to the Lord Deputy *Sidney*, authorizing him to ſummon a Parliament, in the uſual Form, is dated at *Weſtminſter* 12 *July* 1568 (10 *Eliz.*) and the Parliament met 17th *January* following (11). The 1568.

* Tranſmiſs.

## ANNOTATIONS.

(*L*) There is no mention of the acts of this parlement, nor does any veſtige of ſuch a parlement appear in the Statues. If they ſat, it is probable, they did *not agree* or *conclude* upon any of the five bills tranſmitted. Therefore this quotation is of little weight.

(*M*) It is confeſſed, no act of ſubſidy was now demanded or granted. Of the twelve Bills ſayed to be tranſmitted, the Annotator cannot pretend to aſcertain which, or whether any, were paſſed. Seven acts onely are found among the printed Statutes of this parlement, of which, that ſayed to be the *firſt tranſmitted*, ſtands the *ſeventh* and laſt.

Taanſmiſs

Tranſmiſs contains 20 Bills, whereof one is an Act of Subſidy * being the next that was granted after that to Queen *Mary*, as appears by the Recital of this Act: And the firſt Bill in this Tranſmiſs relates alſo to the Augmentation of the Revenue, (*viz.*) "an Act authorizing Statutes, Ordinances, "and Proviſions to be made in *this preſent* Parliament, concerning the Government of the Cammon Weale, and *the Augmentation of her Majeſties "Revenue*, notwithſtanding *Poynings*'s Act." † (*N*)

A Difficulty hath been entertained concerning the immediate Occaſion of making this Law. The expounding Statute of *Philip* and *Mary* ſeems to have been entirely forgotten within the Compaſs of twelve Years. For, after reciting *Poynings*'s Law, it follows, "by occaſion whereof, no Eſtabliſh-"ments or Proviſions can be concluded by the bo-"dy of your Majeſty's Parliament, being aſſem-"bled, but ſuch only as have been before their "Aſſembly certified unto your Highneſs, and af-"firmed by the ſame."—The Intent appears to be a change

* Printed, I. 313. See alſo Sir *J. Davies*'s Diſcovery, &c Page 173.

† This Act is printed (I. 320.) out of it's proper place, as if paſſed in a ſecond Seſſion.

## ANNOTATIONS.

(*N*) The Statutes of this regne are ſo diſorderly and confuſedly printed, that times and dates are hardly to be aſcertained. The act of Supply is that of Mary continued. The firſt bill in the tranſmiſs is not ſolely for *the Augmentation of the Revenue*, this is but a ſecondary conſideration. The primary is *the Government of the Common Weal*. But what is moſt remarkable here, is, that the Statute alluded to is made to empower the Crown, in England, to give the royal Aſſent to Statutes, Ordinances and Proviſions made in this preſent parlement, in Ireland, regardleſs of, or notwithſtanding Poynings's law. See p. 59, 60, 61, 62, 63.

a change of the uſual Method of paſſing ſuch Bills, and *ſuch only* as related to the particular Subjects enumerated in this Act, by their receiving the Royal Aſſent in *England* after their Tranſmiſſion from *England*, their Alteration in *Ireland*, and re-certification to *England*, and to give *ſuch* Bills or Acts ſo altered and re-certified, when conſented to by the Queen in *England*, and re-tranſmitted, the force of Law by Proclamation: For, it enacts, "that all and every the Acts, Statutes, Ordinances, Proviſions, thing and things to be had, done, made, ordained, and eſtabliſhed by the Authority of *this preſent* Parliament, that *ſhall concern the common Weal of this Realm, or the Augmentation of your Majeſty's Revenue*, &c. which ſhall be certified unto your Majeſty, under your Great Seal of this your Realm of *Ireland*, and by your Highneſs allowed and conſented unto, and after returned unto *Ireland*, under the Great Seal of *England*, and after openly proclaimed, ſhall, immediately after the ſaid Proclamations, and not before, be good, effectual, and of full force and validity to all Purpoſes, Intents, and Conſtructions." (O)

1569. This Reaſon, aſſigned for making that Law, is founded upon the Contents of the ſecond Tranſmiſs, which bears Date at *Gorambury* 29 *July* 1569, and contains 12 Bills, 5 whereof had been tranſmitted by the firſt Tranſmiſs, and in virtue of the ſaid Act, "authroizing Statutes," &c. had been altered by the Parliament here, and returned to *England*. The Queen in her Commiſſion to this ſecond Tranſmiſs, recites the ſaid Act, and "that her Majeſty had now lately, ſince the mak-

ANNOTATIONS.

(O) See Annotat. (o o)



"ing,

" ing, eſtabliſhing, and enacting of the ſaid Act,
" in a late Seſſion of her ſaid Parliament, received
" from her Deputy, under the Great Seal of her
" Realm of *Ireland*, certain neceſſary and profitable
" Acts, Ordinances and Proviſions," [mentioning the aforeſaid five Acts, and adding] " all which
" ſeveral Acts were ſent hither from you unto us
" before the beginning of our ſaid Parliament, un-
" der our Great Seal of our ſaid Realm of *Ireland*,
" and were after returned to you again, under our
" Great Seal of *England*, as Bills, we did then well
" allow of: Nevertheleſs, in the peruſing and
" conſideration of them ſince we laſt received them
" from you, we perceyve and find that our ſaide
" Courte of Parliament hathe, upon the treating
" and debating the ſaid Bills, thoughte mete and
" conveniente, by their Wiſdomes, to make ſome
" Alteration or Change of ſome parte of them, and
" likewiſe to certeyne other of the ſaid Bills ſome
" good and neceſſary Addition; which their Do-
" ings we do not miſlike, but take in very good
" parte, as by the declaration of our further plea-
" ſure touching the ſaid Acts, hereafter in theſe
" Preſentes dothe appeare.

" We doe therefore by theſe Preſentes, under
" oure Greate Seale of *England*, according to the
" tenor of the ſaid former Acte, made and eſta-
" bliſhed in our ſaide Parliamente, holden in our
" ſaid Realm of *Ireland*, intituled, 'An Acte au-
" thoriſing Statutes, Ordinaunces, and Proviſions
" to be made concerninge the Governmente of the
" Common Weale, and the Augmentation of our
" Revenewes, notwithſtandinge *Poyninge*'s Acte,"
" give our royal and princelye Allowance and
" Conſente unto all and ſingular the ſaid ſeverall
" Statutes, and to everye of them, before named,
" in ſuche manner and forme, and according to the
tenour,

" tenour, purporte, and effecte of them, as they " paſſed in our ſaide late Parliament, and in ſuche " manner and forme, as you have certifyed them " unto us, under our ſaid Greate Seale of *Ireland*, " and like as we doe retorne them nowe agayne " unto you, annexed and fyled unto theſe Pre- " ſentes, under our ſaid Greate Seale of *England*. " Wylling and commaunding you alſo, by vertue " hereof, to gyve Order, that the ſaid ſeveral " Actes, Ordinances, and Proviſions, and everye " of them, whiche we doe retorne unto you with " theſe Preſentes, be proclaymed, pronounced, " and publiſhed in our ſaid ſeverall cytyes and " Townes of *Dublyn*, *Waterforde*, *Corke*, *Lym-* " *ricke*, *Drougheda*, and *Galwaye*, and everye of " them, to the ende that the ſaid Acts and Orde- " naunces, and everye of them, may, immediate- " ly after the ſaid Proclamation made and pro- " nounced, be goode, effectuall, and of full force " and valydytye to all intents, conſtructions, and " purpoſes, according to the tenour and effecte of " the ſaid Statute." *(O)*

And that this diſpenſing with *Poyning*'s Law related only to *ſuch Subject-matters*, as are particularly mentioned in the ſaid Act " authoriſing Sta- " tutes, *&c.*" is further evinced by the continuation of the Tranſmiſs, which proceeds, " And " whereas alſo, *before the beginnyng of our ſaid Par-* " *liamente*, we did ſend unto youe certayne Bylles " and Matters, under our Great Seale of *England*, " to be conſidered and treated upon in our Parlia- " mente, *then nexte to be holden* within our ſaid " Realme of *Ireland*, with Commiſſion and Autho- " ritye of our roiall Aſſente to be given unto ſuche

*(O)* See Annotation. (oo)

" of them, as ſholde be concluded and agreed upon " within the ſame; ſithe whiche tyme we have " receaved from you one other profytable and ne- " ceſſarye Byll, *to be* alſoe conſidered and treated " upon in one of the nexte ſeſſions of our ſaide Par- " liament, to be holden within our ſayde Realme " of *Irelande*, intituled, *An Acte, gevinge Order* " *for bringyng in of Wines*, &c. * Whiche Byll " we thinke to be verye neadefull and convenyente " for the Common Weale of our ſaid Realme of " *Ireland*, and doe therefore retorne the ſame unto " you annexed herewith, under our Great Seale of " *England*: Signefyinge alſoe unto youe by theſe " Preſentes, that our Pleaſure and Commaunde- " ment is, that the ſaid Bill, being affyled toge- " ther with theſe Preſentes, *ye ſhall likewiſe cauſe to* " *be* conſidered and treated upon in one of the nexte " Seſſions of our ſaide Parliamente; *and if the* " *ſaid Byll ſhall be agreed and concluded upon in our* " *ſaid Courte of Parliamente, by the Lordes ſpirituall* " *and temporall and our Commons theare aſſembled,* " *then to give and declare our roiall Aſſente unto the* " *ſaide Byll*, by virtue of our ſaid former Commiſ- " ſion of our roiall Aſſente, and by Warraunte " hereof, in ſuch manner and forme, as ye ſholde " or oughte to have done, if the ſame Byll had " byn affyled and annexed with the ſaide Commiſ- " ſion of our roiall Aſſente; and theſe Preſentes " ſhall be alſoe your ſufficient Warraunte in that " behalf." †(P)

The

* Tranſmiſs.

## ANNOTATIONS.

(P) This requires no long comment: The Governor is directed, commanded and authoriſed to act, as is moſt meet; the parlement is left, as by right and law it muſt be, Free.

The third Tranſmiſs is dated at *Hampton-Court* 3 *May*, 1570, and contains nine Bills, five of which are printed: And no Tranſmiſſions remain of the Act for the Attainder of *Thomas Comerforde* (I. 374.) or of thoſe (printed) of the 13th year, which is a continuation of the ſame Parliament. (Q) This Tranſmiſs ſets forth, "That "the Queen had received certain Bills and Mat- "ters, tending to the Profite and Commoditie of "her Crown and Realm of *Ireland*, which ſhe had "peruſed and conſidered upon, by the Advice of "her Council; and, finding ſome of them formed "and made according to her mind; others, which "ſhe had in part altered and changed, and the reſt, "which ſhe thought for this preſent not needful, "ſhe had for this time omitted. And therefore, "ſuch of the ſaid Bills, as ſhe thought expedient "and neceſſary to be treated and conſidered upon "in the next Seſſion of her Parliament, to be "holden in *Ireland*, ſhe had cauſed to be written "and engroſſed, and affiled the ſame to this her "Commiſſion, with Authority to give the royal "Aſſent to them all, or as many of them, as ſhould "be *agreed upon* in the ſaid Parliament." * (R) 1570.

* Tranſmiſs.

ANNOTATIONS.

(Q) Several tranſmiſſes are *ſuppoſed* to be wanting, when no evidence is given to prove, that ſuch ever exiſted. And the name here written, *Comerforde*, ſtands in the Statutes, Vol. I. p. 374, 375, *Quevverforde* and Quemerforde. Want of accuracy in the Amanuenſis!

(R) In this, the Crown did no more than is uſual in England: The royal aſſent is given to ſuch acts as are approved; ſuch as are not, are not denied, but poſtponed for further conſideration, in the conſtitutional form, *Le Roi S'aviſera.*

The

The next Parliament held in *Ireland*, was *that* of the 27th and 28th Years of *Elizabeth*; the Commiſſion for ſummoning of which is dated at *Weſtminſter*, 13 *January* 1585 (27) and the Tranſmiſs contains nine Bills; whereof the firſt is "an Act for Impoſt and Subſidy upon Wines;" † and another is "A Subſidy of 13 s. 4 d. upon "a Ploughland, from the firſt of *May* next enſuing, "to the end of the term of ten years, payable "yearly at *Michaelmas*." The Preamble of which Bill ſhews it to be the only one granted ſince *that* of the 11th year, which was now expired: "And "we your Majeſty's loving, faithful, and obedient "Subjects, being at this preſent time juſtly mov-"ed by ſundry great Cauſes to renew the ſaid grant "unto your Majeſty, your Heirs and Succeſſors, "and in conſideration to be from henceforth deli-"vered from the grievous Exaction of Coyne and "Livery, do moſt lovingly and freely offer unto "your Majeſty, not only the renewing of the ſaid "Subſidy, now expired, but alſo do humbly re-"quire, that the Grant of the ſame Subſidy may "be enacted, and be it enacted by your Majeſty, "with the Aſſent of the Lords ſpiritual and "temporal and Commons, *&c.*" * (S) 1585.

The Commiſſion of King *James* I. for ſummoning the only Parliament of his Reign, bears date at *Weſtminſter*, 6 *March* 1612 (anno 10,) and is *incorrectly* printed before the Journal 1613.

* Tranſmiſs.
† Printed, as the 4th Chap. of the 28th Year (I. 410.)

## ANNOTATIONS.

(S) This ſtands upon the ſame footing with the continuation of Mary's Subſidy, p. 61, 62.

nal of that Parliament. The Tranſmiſs, annexed to the Commiſſion, contains twenty Bills; among which are, the Subſidy Act; * and an Act for Confirmation of the Subſidy granted by the Clergy. (*T*) —Theſe two Subſidy Bills *ſeem* to have been prepared, certified, and tranſmitted previous to the holding of the Parliament, by their being inſerted in the firſt Tranſmiſs, annexed to the Commiſſion for ſummoning the Parliament; and yet, by the ſecond Tranſmiſs, dated at *Weſtminſter*, 7 *November* 1614, they appear to have been certified after the Parliament ſat, and are the only Bills thereby tranſmitted; (*U*) for the King thus expreſſes himſelf. "Whereas we have lately ſent unto youe "certaine Billes and Matters, under our Greate "Seale of *England*, to be conſidered and treated "upon in our Parliament, lately begonne and "holden within our ſaid Realme of *Ireland*, with "Commiſſion and Authority given unto you to "give

* Statutes, I. 460.

## ANNOTATIONS.

(*T*) Of theſe twenty Bills, ſayed to be tranſmitted, ten onely are printed; of which, the firſt here recited is but the fiveth on the parlement roll, and in the Statutes, the tenth and laſt.

(*U*) The Amanuenſis is pleaſed, here alſo, to give a *Surmiſe*, inſtead of the promiſed proof from the *Records*, that theſe two bills were *prepared, certified* and *tranſmitted, previous to the holding of the parlement*; though, *by the ſecond Tranſmiſs*, he is forced to confeſs, *they appear to have been certified after the parlement ſat, and are the onely bills thereby tranſmitted*.—But this *ſurmiſe* or *ſeeming* is by no means authoriſed by the tranſmiſs quoted, hence, to p. 72: The King ſays, he ſent them *certain bills*; *ſince which time, he has received, from them, the* two bills *mentioned, which he approves*, &c. Can any thing be more evident, than the fallacy of this *ſurmiſe*?

"give unto the ſame Billes, or any of them, *that "ſhall be there concluded and agreed upon*, our royal "Aſſent: Since which time we have received from "you, under our Great Seale of *Ireland*, two other "Billes, to be alſo conſidered and treated upon in "our ſaid Parliament, the one *for Confirmation of "the Subſidie graunted by the Clergie*; and the other, "*for the Graunt of one entire Subſidie by the Tem-"poraltie*. We doe by theſe Preſents declare our "royal Approbation of the ſaid Bills, and retorne "the ſame Bills unto you hereunto annexed under "our Great Seale of *England*." †

The Truth *ſeems* to be, that when theſe two Bills, after the firſt Tranſmiſſion, came to be conſidered and treated of in Parliament, ſeveral Alterations were found to be neceſſary, and that the Bills, ſo altered, were re-certified and re-tranſmitted; In ſupport of this *Conjecture*, it is to be obſerved, that there are two Tranſmiſſes of the printed Subſidy Act, which vary in many particulars, (*V*).

There

† Tranſmiſs.

## ANNOTATIONS.

(*V*) Here comes another *ſeems*, as abſurd and fallacious, as the preceding. Is it not as reaſonable and natural to think, that, if ſuch bills were tranſmitted, previous to the ſitting of the Parlement, they were rejected by the Commons, as thoſe of *William* and *George* the third were, and for the like reaſons; and that afterwards two regular bills, originated where they ſhould be, were tranſmitted, returned and paſſed? Though no *notice* was taken, no *cenſure*, or *animadverſion* paſſed, no *proteſt* entered againſt the procedings of *James*'s Parlement, nor were they puniſhed with an untimely prorogation.

But of what uſe, to the cauſe of his employer, is the *conjecture* of his Amanuenſis; ſince he muſt confeſs, either way, that the ſubſidy bills, that were paſſed, were tranſmitted, ſitting the Parlement?

There is a third Tranſmiſſion of Bills, dated at *Weſtminſter* 23 *March* 1614, containing ſixteen Articles, whereof four are printed. 1614.

" Since which time (*viz.* ſince the commencement " of the Parliament) we have received from you " (ſaies the King) " under our Great Seal of *Ire-* " *land*, divers other neceſſary Bills, to be alſo con- " ſidered and treated upon in our ſaid Parliament, " concerning divers things, very needful and pro- " fitable for the Common Weale of that our ſaid " Realm of *Ireland*; and we find alſo ſome other " Bills, which were formerly tranſmitted from " you, and allowed by us and our Council, and " nevertheleſs remained here on this ſide, not tranſ- " mitted over to you again. We do therefore by " theſe Preſents declare our Royal Approbation of " ſuch of the ſaid Bills, and in ſuch manner and " forme, and with ſuch Amendments of ſome of " them, as we return the ſame unto you hereunto " annexed, under our Great Seal of *England*. Sig- " nifying," &c. * (*W*)

From this time to the tenth Year of *Charles* I. no Parliament was held in *Ire-* 1634. *land*. That King, by Commiſſion, dated at *Weſt-* *minſter* 13 *May* 1634, directed a Parliament to be

* Tranſmiſs.

## ANNOTATIONS.

(*W*) Here appears another inſtance of the little regard payed by Parlement, to certified bills, one fourth onely of which, appears in the Statutes. At the ſame time, that it is again confeſſed and proved, that the king had *received divers other neceſſary bills, tranſmitted from them* ſitting Parlement; which he *approves*, &c. Do the opponents to the meaſures of the preſent adminiſtration contend for more, or for any other conceſſions than theſe?

ſummoned, and "that the Subſidy Bill, *certified by "the Lord Deputy and Council*, tranſmitted and an- "nexed to the Commiſſion, ſhould be ready for "the Royal Aſſent, and paſs in three Weeks next "after the beginning of the ſaid Parliament; and "alſo that the Parliament ſhould be finiſhed and "fully diſſolved within nine Months after the Day "of its Commencement."—By the ſecond Tranſmiſs, dated 13 *July* 1634, the ſaid time limited for paſſing the Subſidy Act, was enlarged by the addition of "fourteen Days, leſt the ſaid three Weeks "might happen to be too ſhort a time for the ef- "fecting thereof." † (*X*)

1639. The Commiſſion for holding the Parliament of 1639, and the ſeveral tranſmiſſions of Bills being in print, ‡ any further obſervation is thereby rendred unneceſſary; only, that the Commiſſion contains Directions, that the Bills, intituled, "an Act for the Grant of ſix entire Sub- "ſidies by the Temporality; or, an Act, for the "Grant

† Tranſmiſſes.
‡ Commons Journal, I. 205.—216.

## ANNOTATIONS.

(*X*) In what words the certified bill is drawn, the Amanuenſis does not *ſeem* willing to inform us. The printed ſtatute recites, in the ſtrongeſt terms, the gift of the Commons, in theſe words; *Moſt gracious Soveregne, We your Majeſty's moſt humble and loyal ſubjects of your highneſſes's realm of Ireland, the* Commons *in your high Court of Parlement now aſſembled humbly preſent your Majeſty with four intire Subſidies*, &c. If theſe words were not put together by the Commons, they were contrived for their deception. No wonder if they took the hook, thus baited, in this or any other regne. However, the inſerting them thus, though in a tranſmiſs, clearly acknowledges and proves, where the ſole, excluſive right of originating bills of Subſidy or Supply, did and muſt always remane.

" Grant of four entire Subſidies by the Tempo-
" ralty" (doubtleſs, which of them the Commons ſhould think fit to paſs) " might be prepared for
" the Royal Aſſent within thirty days after the
" beginning of the ſaid Parliament." And that the Act for the Grant of four entire Subſidies, * is the firſt annexed to the Commiſſion for holding the Parliament. † (Y)

The Commiſſion for holding the only Parliament of King *Charles* the II, bears date, at *Weſtminſter* 13 *March* 1690, and is printed. ‖—Several Tranſmiſſes of this and the preceding Reign have been lately diſcovered, and ſent to the Rolls-office; but the firſt Tranſmiſs of this Reign, ſo recovered, being dated 9 *Aug.* 1661, during the firſt Prorogation, it cannot now be aſcertained by Record, what Bills were tranſmitted, and annexed to the Commiſſion for holding the Parliament: but, the only Bill, annexed to this Tranſmiſs of the ninth of *Auguſt*, is an Act, " for the ſpeedy raiſing of
" Money for his Majeſty's Service." (Z) 1660.

The

* Statutes, II. 206, Chap. 13.
† Tranſmiſs.
‖ Commons Journal, I. 587.

## ANNOTATIONS.

(Y) This ſtands preciſely upon the ſame footing with the preceding; except that the Commons were left at their diſcretion, to grant ſix or four Subſidies. They choſe the later, which are granted in the ſame words with thoſe of the former Parlement. But, it is obſervable, that after the firſt tranſmiſs, previous to the calling of this Parliament; there were three other tranſmiſſes from the ſitting Parlement to the King, and returned.

(Z) Though great confuſion and uncertainty appear in the ſtate of the records, in almoſt every regne, the greateſt appears in this, where one tranſmiſs onely can be produced.

This

The next Parliament was *That* of 1692, with which this Inquiry concludes, in obedience to the commands of Government; directing, that a State of the *Uſage* of holding Parliaments in *Ireland*, &c. ſhould be prepared, from the earlieſt Period of time upon Record, to the Year One thouſand ſix hundred ninety two. +

## ANNOTATIONS.

This parlement was confeſſedly called, without certifying a bill of Supply. And the bill, ſuppoſed to be annexed to the onely tranſmiſs produced, is not to be found, if ever it exiſted. This Parlement conſiſted of four ſeſſions, in each of which, ſeveral bills were tranſmitted by the Parlement, whereof, one was a grant of eight Subſidies, which muſt be confeſſed, to have taken riſe in the Commons, and is expreſſed in the like terms with ſuch grant to the late and former kings.

+ As for the Parlement of 1692, let it for the preſent remane in the obſcurity, the Amanuenſis chooſes. It is however to be lamented, his Orders went no further; that he might have ſhew the Adminiſtrations of the Lords Sidney and Townſhend in their true Colors.

THE END.

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